

ALVORD AND ALVORD
ATTORNEYS AT LAW
918 SIXTEENTH STREET, N.W.
SUITE 200
WASHINGTON, D.C.
20006-2973
(202) 393-2266
FAX (202) 393-2156

ELIAS C. ALVORD (1942)
ELLSWORTH C. ALVORD (1964)

OF COUNSEL
URBAN A. LESTER

December 30, 1994

Mr. Vernon A. Williams
Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11303(a) are two (2) copies of each of the following documents: a Memorandum of Railcar Lease Agreement, dated as of December 30, 1994, a primary document; a Loan and Security Agreement, dated as of December 15, 1994, and a Loan and Security Agreement Supplement No. 1, dated as of December 30, 1994, both secondary documents related to the aforesaid primary document.

The names and addresses of the parties to the enclosed documents are:

Memorandum of Railcar Lease Agreement

Lessor	:	The First National Bank of Maryland 25 South Charles Street Baltimore, Maryland 21201
Lessee	:	Mobil Oil Corporation 11921 Freedom Drive Reston, Virginia 22090

0100470024

19147-A+B

DEC 31 1994

Question put to him

Mr. Vernon A. Williams
December 30, 1994
Page 2

Loan and Security Agreement
and Supplement No. 1

Debtor: The First National Bank of Maryland
25 South Charles Street
Baltimore, Maryland 22090

Secured Party: The Minnesota Mutual Life Insurance Company
400 North Robert Street
St. Paul, Minnesota 55101

A description of the railroad equipment covered by the enclosed documents is attached to the Memorandum of Lease as Exhibit A.

Also enclosed is a check in the amount of \$63.00 payable to the order of the Interstate Commerce Commission covering the required recordation fee.

Kindly return one stamped copy of each of the enclosed documents to the undersigned.

Very truly yours,



Robert W. Alvord

RWA/bg
Enclosures

19147 -A

DEC 16 1994

EXECUTION COPY

LOAN AND SECURITY AGREEMENT

Dated as of December 15, 1994

between

THE FIRST NATIONAL BANK OF MARYLAND,
as Borrower,

and

THE MINNESOTA MUTUAL LIFE INSURANCE COMPANY
as Lender

This Loan and Security Agreement was filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 on December __, 1994 at ____, Recordation Number ____.

This Loan and Security Agreement was filed with the Registrar General of Canada pursuant to the Railway Act [Canada] on December __, 1994 at ____, Recordation Number ____.

TABLE OF CONTENTS

	<u>Page</u>
SECTION 1 DEFINITIONS; INTERPRETATION OF THIS AGREEMENT.	1
Section 1.1 Definitions	1
Section 1.2 Headings	1
Section 1.3 Time	1
Section 1.4 Construction	1
Section 1.5 Entire Agreement	1
Section 1.6 Calculation of Interest, Fees, Etc	2
Section 1.7 Other Interpretive Provisions	2
SECTION 2 COMMITMENT OF LENDER; CLOSINGS	2
Section 2.1 Issue and Sale of Notes	2
Section 2.2 Closing Dates	2
Section 2.3 Procedures at Closing	2
Section 2.4 Transaction Expenses	3
SECTION 3 REPRESENTATIONS AND WARRANTIES	4
Section 3.1 Representations and Warranties of Borrower	4
Section 3.2 Representations and Warranties of Lender	6
SECTION 4 CLOSING CONDITIONS	6
Section 4.1 Closing Notice	6
Section 4.2 Execution of Operative Agreements.	6
Section 4.3 Notes	6
Section 4.4 Documents	6
Section 4.5 Purchase Documents	7
Section 4.6 No Defaults	7
Section 4.7 UCC Searches	7
Section 4.8 Recordation and Filing	7
Section 4.9 Representations and Warranties	7
Section 4.10 Closing Certificate of Lessee	8
Section 4.11 Closing Certificate of Borrower	8
Section 4.12 Opinions of Counsel	8
Section 4.13 Corporate Documents	8
Section 4.14 Other Documents	8
Section 4.15 No Threatened Proceedings	8
Section 4.16 No Change in Law	8
Section 4.17 No Material Adverse Change	8
Section 4.18 Legal Investment	9
Section 4.19 Absence of Public Offering	9
SECTION 5 NOTES	9
Section 5.1 Form of Notes	9
Section 5.2 Terms of Notes	11
Section 5.3 Payments from Collateral Only	12
Section 5.4 Method of Payment	12
Section 5.5 Termination of Interest in Collateral	12
Section 5.6 Registration of Notes; Transfer and Exchange	12

Section 5.7	Mutilated, Destroyed, Lost or Stolen Note	13
Section 5.8	Payment of Expenses on Transfer	13
SECTION 6 SECURITY INTEREST		13
Section 6.1	Grant of Security	13
Section 6.2	Financing and Continuation Statements	16
Section 6.3	No Legal Title to Collateral in Lender	16
Section 6.4	Limitation on Lender's Duty in Respect of the Collateral	16
Section 6.5	Release of Items	16
Section 6.6	Borrower to Remain Liable	17
SECTION 7 RECEIPT, DISTRIBUTION, AND APPLICATION OF INCOME FROM THE COLLATERAL		18
Section 7.1	Receipt of Funds	18
Section 7.2	Prepayments	19
Section 7.3	Payment After Loan Event of Default	21
Section 7.4	Application of Payments According to Lease Provisions	21
Section 7.5	Other Payments	21
Section 7.6	Distribution After Loan Default	22
Section 7.7	Funds Held By Lender	22
Section 7.8	Payments to Borrower	22
SECTION 8 PREPAYMENT OF THE NOTES		23
Section 8.1	Applicability of Article	23
Section 8.2	Method of Payment	23
Section 8.3	Cessation of Interest	23
SECTION 9 REMEDIES OF LENDER		23
Section 9.1	Loan Default	23
Section 9.2	Remedies; Acceleration	24
Section 9.3	Taking Possession of Collateral; Rights of Lender	25
Section 9.4	Certain Rights of Borrower	27
Section 9.5	Remedies Cumulative	29
Section 9.6	Discontinuance of Proceedings	29
Section 9.7	Sale of Equipment by Lender Is Binding	29
Section 9.8	Certain Rights of Borrower	29
SECTION 10 COVENANTS OF BORROWER		30
Section 10.1	Reports	30
Section 10.2	Borrower Liens	30
Section 10.3	Consolidation and Merger	30
Section 10.4	Transfer of Borrower's Interest	31
Section 10.5	Brokers	31
Section 10.6	Location of Items; Inspection	31
Section 10.7	Restrictions on Assigned Agreements	31
Section 10.8	Economic Obsolescence of Item	32
Section 10.9	Guaranty and Indemnity Payments	32
Section 10.10	Appointment of Lender as Attorney	32
Section 10.11	Further Assurances	33

SECTION 11 LENDER	33
Section 11.1 Acceptance of Duties	33
Section 11.2 Absence of Certain Duties	33
Section 11.3 No Representation or Warranties as to Equipment or Documents ..	33
Section 11.4 Limitations of Liability	33
SECTION 12 SUPPLEMENTS AND AMENDMENTS	34
Section 12.1 Conditions and Limitation	34
Section 12.2 Supplements Not Requiring Consent or Request	34
Section 12.3 Amendments and Waivers	34
SECTION 13 MISCELLANEOUS	35
Section 13.1 Loan Agreement for Benefit of Certain Parties Only	35
Section 13.2 Notices	35
Section 13.3 Survival	35
Section 13.4 Successors and Assigns	35
Section 13.5 Business Day	36
Section 13.6 Governing Law	36
Section 13.7 Severability	36
Section 13.8 Counterparts	36
Section 13.9 Headings and Table of Contents	36
Section 13.10 Integration	36
EXHIBIT A Certificate and Acknowledgment of Lessee	
EXHIBIT B Lessee Counsel Opinion	
EXHIBIT C Guarantor Counsel Opinion	
EXHIBIT D Lessor Counsel Opinion	
EXHIBIT E Special Counsel Opinion	
EXHIBIT F Certificate of Broker	
EXHIBIT G Loan Supplement	

LOAN AND SECURITY AGREEMENT

This **LOAN AND SECURITY AGREEMENT** dated as of December 15, 1994 (this "*Loan Agreement*") between THE FIRST NATIONAL BANK OF MARYLAND, a national banking association ("*Borrower*") and THE MINNESOTA MUTUAL LIFE INSURANCE COMPANY, a Minnesota corporation ("*Lender*"),

W I T N E S S E T H:

A. Borrower and Mobil Oil Corporation, a New York corporation ("*Lessee*") have entered into that certain Master Lease Agreement effective as of April 28, 1994 (the "*Master Lease*"), and Equipment Schedule Number 3 thereto dated October 31, 1994, together with Riders No. 1, No. 2 and No. 3 thereto ("*Equipment Schedule Number 3*"; collectively with the Master Lease solely as it relates to the Equipment Schedules, the "*Lease*") with respect to certain rolling stock (the "*Equipment*").

B. Borrower proposes (i) to finance a portion of the Actual Total Cost of the Equipment pursuant to the terms and conditions hereof by selling its notes to Lender and (ii) to secure the notes by a grant to Lender of a security interest in the Lease and the Equipment.

AGREEMENT

NOW, THEREFORE, in consideration of the above recitals and the covenants herein contained, the Borrower and Lender hereby agree as follows:

SECTION 1 DEFINITIONS; INTERPRETATION OF THIS AGREEMENT.

Section 1.1 Definitions. The capitalized terms used in this Loan Agreement and not otherwise defined herein shall have the respective meanings specified in the Glossary hereto.

Section 1.2 Headings. Headings in this Loan Agreement are for convenience of reference only and are not part of the substance hereof.

Section 1.3 Time. All references in this Loan Agreement to a time of day shall mean the time in New York City unless otherwise indicated.

Section 1.4 Construction. This Loan Agreement is the result of arm's-length negotiations between, and has been reviewed by, each party hereto and its counsel. Accordingly, this Loan Agreement shall be deemed to be the product of both parties hereto, and no ambiguity shall be construed in favor of or against either party.

Section 1.5 Entire Agreement. This Loan Agreement and each of the other Operative Documents, taken together, constitute and contain the entire agreement of the

parties hereto and supersede any and all prior agreements, negotiations, correspondence, understandings and communications among the parties, whether written or oral, respecting the subject matter hereof.

Section 1.6 Calculation of Interest, Fees, Etc. All calculations of interest, fees and other amounts under this Loan Agreement for any period shall include the first day of such period and exclude the last day of such period.

Section 1.7 Other Interpretive Provisions. References in this Loan Agreement to "Sections," "Exhibits" and "Schedules" are to sections, exhibits and schedules herein and hereto unless otherwise indicated.

SECTION 2 COMMITMENT OF LENDER; CLOSINGS.

Section 2.1 Issue and Sale of Notes. Subject to the terms and conditions hereof and on the basis of the representations and warranties hereinafter set forth, Borrower agrees to issue and sell to the Lender, and the Lender agrees to purchase from Borrower, on each Closing Date, Notes of the applicable Series in an aggregate principal amount equal to the Lender's Percentage of Equipment Cost for the related Group multiplied by the Actual Total Cost of the Equipment to be financed on such Closing Date. The aggregate principal amount of the Notes issued on both Closing Dates shall in no event exceed \$11,704,000. The Notes shall be substantially in the form set forth in Section 5.1. On each Closing Date, Borrower shall issue a single Note of the applicable Series registered in the name of Lender unless Lender requests multiple notes with different denominations not less than one (1) Business Day prior to such Closing Date.

Section 2.2 Closing Dates. Borrower shall give to Lender at least two (2) Business Days' prior notice of each Closing Date, the Items of Equipment to be purchased on such date, the Actual Total Cost of all such Items of Equipment and the aggregate amount of the Notes of the applicable Series that Lender is to purchase on such Closing Date. Borrower may cancel or reschedule any scheduled Closing Date by giving to Lender notice of the new Closing Date at least two (2) Business Days prior to such scheduled Closing Date; provided, that the first Closing Date shall in no event occur on a date later than December 31, 1994 and the second Closing Date shall in no event occur on a date later than August 31, 1995. Notices under this Section 2.2 may be telephonic if confirmed in writing.

Section 2.3 Procedures at Closing. On each Closing Date, Lender shall deliver the amount of its Commitment to Seller or an escrow agent acceptable to Lender by Noon, New York time, in immediately available funds by wire transfer or otherwise, and Borrower shall (a) purchase the Equipment to be financed on such Closing Date, (b) pay the appropriate Seller the Actual Total Cost of such Equipment in immediately available funds (c) lease such Equipment to Lessee pursuant to the Lease and (d) pay all Transaction Costs that are to be paid on such Closing Date pursuant to Section 2.4. All such transactions shall be deemed to occur simultaneously, and no such transaction shall be deemed to have been completed until all such transactions have been completed.

Section 2.4 Transaction Expenses.

(a) On Each Closing Date. Except as otherwise provided in this Section 2.4, Borrower shall pay the following expenses relating to the transactions contemplated by this Loan Agreement (the "*Transaction Costs*") on each Closing Date to the extent that such Transactions Costs have been invoiced to Borrower on or before such Closing Date and thereafter promptly after receiving being invoiced therefor:

(i) the cost of reproducing and printing the Loan Agreement and the Notes, including all costs and fees in connection with the initial filing of the Lease and this Loan Agreement;

(ii) the fees and expenses of Orrick, Herrington & Sutcliffe, special counsel for Lender, for their services rendered in connection with the negotiation, execution and delivery of this Loan Agreement and Notes;

(iii) the fees and expenses of special counsel to Lender in connection with filings with the ICC and the Registrar General of Canada; and

(iv) all recording and filing fees, stamp taxes and other recording or filing taxes in connection with any Uniform Commercial Code financing statements and continuation statements or other documents filed to perfect the lien of this Loan Agreement.

(b) Other Costs. Except as otherwise provided in this Section 2.4, whether or not the transactions contemplated by this Loan Agreement shall be consummated, Borrower shall pay the following upon demand:

(i) the expenses of Lender, including reasonable fees and expenses of counsel, in connection with any amendments, waivers or consents which are requested by Lessee or Borrower or are entered into in connection with or as a result of a Lease Default;

(ii) all recording and filing fees, stamp taxes and other recording or filing taxes in connection with the recordation or filing of any such amendments, waivers and consents; and

(iii) all recording and filing fees, stamp taxes and other recording or filing taxes in connection with filings with the ICC and with any Uniform Commercial Code financing statements and continuation statements or other documents filed to maintain and protect the rights of Lender hereunder.

(c) No Obligation on Lender. Whether or not the transactions contemplated by this Loan Agreement are consummated, Lender shall have no liability for any of the aforesaid fees, costs, disbursements and expenses or for any other expenses.

SECTION 3 REPRESENTATIONS AND WARRANTIES.

Section 3.1 Representations and Warranties of Borrower. Borrower represents and warrants to Lender that, as of each Closing Date:

(a) Borrower is a national banking association duly organized, validly existing and in good standing under the laws of the United States of America, is duly qualified and in good standing in each jurisdiction where the failure to so qualify would materially and adversely affect its ability to perform its obligations under this Loan Agreement, the Notes and the Lease (the "*Borrower Documents*") and has the corporate power and authority to carry on its business as now conducted.

(b) Borrower has the corporate power and authority to enter into, execute and deliver the Borrower Documents and to perform each and all of the matters and things provided for it to perform in the Borrower Documents, and such execution delivery and performance do not and will not contravene any law or regulation or any order of any court or governmental authority or agency applicable to or binding on Borrower or its properties, or contravene the provisions of, or constitute a default under, or result in the creation or imposition of any Lien on the Equipment or the Lease under, its organization document or by-laws or any indenture, mortgage, contract or other agreement or instrument to which Borrower is a party or by which it or any of its property or the Equipment may be bound or affected (other than the leasehold interest of Lessee under the Lease and the security interest of Lender under this Loan Agreement).

(c) The Borrower Documents have been duly authorized by all necessary corporate action on the part of Borrower, do not require any approval not already obtained of stockholders of Borrower or any approval or consent not already obtained of any trustee or holders of indebtedness or obligations of Borrower or any other Person, have been duly executed and delivered by Borrower and constitute the legal, valid and binding obligations of Borrower, enforceable against Borrower in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally, and by general principles of equity, regardless of whether such enforceability is considered in a proceeding at law or in equity.

(d) No authorization or approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for the due execution, delivery or performance by Borrower of the Borrower Documents.

(e) There are no proceedings pending or, to the knowledge of Borrower, threatened against or affecting Borrower, in or before any court or before any governmental authority or arbitration board or tribunal which, if adversely determined would be reasonably likely to impair the ability of Borrower to perform its obligations under the Borrower Documents.

(f) The chief executive office and principal place of business of Borrower and the office where Borrower keeps its records concerning this transaction is located in Baltimore, Maryland.

(g) Neither Borrower nor any Person authorized or employed by Borrower as agent or otherwise in connection with the placement of the Notes or any similar interest has offered any of the Notes or any similar interest for sale to, or solicited offers to buy any thereof from, or otherwise approached or negotiated with respect thereto with, any prospective purchaser other than Lender and not more than ten (10) institutional investors. Helm Financial Corporation is the only Person authorized or employed by Borrower as agent or otherwise in connection with the placement of the Notes or any similar interest.

(h) Borrower represents and warrants to Lender that it has performed all obligations on its part to be performed under the Operative Agreements on or prior to the date hereof.

(i) On each Closing Date, Borrower will have good and marketable title to the Equipment being financed on such Closing Date, free and clear of all Liens.

(j) To the knowledge of Borrower, no Loan Default has occurred and is continuing.

(k) After the filing of financing statements under the Uniform Commercial Code and filing of the Lease or a memorandum thereof and this Agreement with the Interstate Commerce Commission, all filings and other actions in the United States necessary to protect the rights of Borrower in the Equipment and under the Lease, and to perfect the lien and security interest of the Lender under the Loan Agreement in the Collateral as against creditors of and purchasers from Borrower, have been made and the Loan Agreement creates a valid and perfected first priority lien and security interest in the Equipment and all other Collateral, effective as against creditors of and purchasers from Borrower and Lessee securing the payment and performance of all Secured Indebtedness.

(l) The execution and delivery by Lessee of the Lease and the issue and sale on the Closing Date of the Notes will not involve any transaction which is subject to the prohibitions of Section 406 of ERISA or in connection with which a tax could be imposed pursuant to Section 4975 of the Code. The representation by Borrower in the preceding sentence is made in reliance upon and subject to the accuracy of the representations of Lender in Section 3.2 of this Agreement and disclosures pursuant thereto as to the source of the funds used by the Lender to make its investment pursuant to this Agreement.

(m) Borrower agrees that neither it nor anyone acting on its behalf will offer the Notes or any part thereof or any similar security for issue or sale to any prospective purchaser, or solicit any offer to acquire any of the Notes or any part thereof so as to bring the issuance and sale of the Notes or any part thereof within the provisions of Section 5 of the Securities Act of 1933, as amended.

Section 3.2 Representations and Warranties of Lender. Lender represents and warrants to Borrower that, as of each Closing Date:

(a) Lender is purchasing the Notes for its own account for investment and not with a view to the distribution thereof; provided, however, that the disposition of Lender's property shall be at all times within its own control, and that Lender's right to sell or otherwise dispose of all or any part of the Notes purchased or acquired by it pursuant to an effective registration statement under the Securities Act or under an exemption from such registration available under the Securities Act (including but not limited to the exemption provided by Rule 144A of the SEC thereunder) and in accordance with any applicable state securities law shall not be prejudiced.

(b) Lender acknowledges that the Notes have not been registered under the Securities Act of 1933, as amended, and that the Notes must be held until paid in full unless the Notes are subsequently registered under said Securities Act or an exemption from such registration is available.

(c) No part of the funds used or to be used to purchase the Notes constitutes amounts allocated to any separate account maintained by Lender in which any employee benefit plan has any interest.

SECTION 4 CLOSING CONDITIONS.

The obligation of Lender to purchase the Notes of the applicable Series as set forth in Section 2.1 on each Closing Date is subject to the following conditions:

Section 4.1 Closing Notice. Lender shall have received the written notice of such Closing Date as required pursuant to Section 2.2.

Section 4.2 Execution of Operative Agreements. On or before the Closing Date, this Loan Agreement, the applicable Loan Supplement, the Notes, the Lease, the applicable Certificate of Acceptance and all other Operative Agreements to be entered into on or before such Closing Date (a) shall have been duly authorized, executed and delivered by the respective party or parties thereto and (b) shall be in form and substance satisfactory to Lender.

Section 4.3 Notes. The Note or Notes to be delivered on such Closing Date shall have been duly authorized, executed and delivered to Lender by a duly authorized officer of Borrower, dated such Closing Date and registered in the name of Lender or its designee.

Section 4.4 Documents. On such Closing Date, Lender shall have received an original executed counterpart of each Operative Agreement to be executed on or before such Closing Date, except that Lender shall receive the original of the Note made in favor of

it, and Lender shall have received Counterpart Number 1 of the Equipment Schedule (the "chattel paper" copies).

Section 4.5 Purchase Documents. On such Closing Date, (a) the applicable Seller shall have delivered to Borrower (with copies to Lender) a Purchase Order Assignment and a Warranty Bill of Sale (the "Bill of Sale", and (y) Lessee shall have delivered to Borrower (with copies to Lender) a quit claim bill of sale dated such date covering the Items to be settled for on such date and sold by the Seller (the "*Lessee Bill of Sale*"), transferring the interest, if any, of Lessee in such Items to Borrower.

Section 4.6 No Defaults. On such Closing Date, no Lease Default, Loan Default or Lease Event shall have occurred and be continuing.

Section 4.7 UCC Searches. On or before such Closing Date, Lender shall have received, in form and substance satisfactory to Lender, the results of searches conducted in the Uniform Commercial Code records of the Secretary of State of the Maryland against Lessor as debtor and the State of Virginia against Lessee as debtor.

Section 4.8 Recordation and Filing. On or before such Closing Date, to the satisfaction of Lender, (a) all filings, recordings and other actions that are necessary or desirable in order to establish, protect, preserve and perfect Lessor's title in and to the Collateral and Lender's first Lien on and prior perfected security interest in all right, title, estate and interest of Lessor in and to the Collateral for the benefit of Lender shall have been duly made or taken, and all fees, taxes and other charges relating to such filings and records and other actions shall have been paid, (b) Lessor shall have good and marketable title in and to the Collateral and Lender shall have a first Lien on and prior perfected security interest in, all right, title, estate and interest of Lessor in and to the Collateral, prior and superior to all other Liens thereon and (c) Lender shall have received authenticated copies or other evidence acceptable to Lender of all filings, recordings and other actions obtained or made in order to create and perfect such title and first Lien on, and perfected security interest in, the Collateral, prior and superior to all other Liens, existing or future. Without limiting the generality of the foregoing, (i) on or before such Closing Date, a memorandum of the Lease, a memorandum of this Loan Agreement and the applicable Loan Supplement shall be duly filed, recorded, deposited and noticed in conformity with 49 U.S.C. § 11303 (or any successor provision thereof) and Section 90 of the Railway Act of Canada and in such other places within the United States, Canada and Mexico as Lender may request for the protection of the title of Borrower to, or the security interest of Lender in, the Equipment and (ii) on or before such Closing Date, Uniform Commercial Code financing statements naming Borrower as debtor and Lender as secured party shall be filed in such public offices as are deemed necessary or appropriate by Lender to perfect the right, title and interest of Lender in the Lease.

Section 4.9 Representations and Warranties. On such Closing Date, (a) the representations and warranties of Lessee and Borrower contained herein or in any other Operative Agreement shall be true and correct as though made on and as of such Closing Date and (b) the statements in Section 2(b) of Rider No. 3 shall be true.

Section 4.10 Closing Certificate of Lessee. On such Closing Date, Lender shall have received a Certificate and Acknowledgment of Lessee substantially in the form of Exhibit A.

Section 4.11 Closing Certificate of Borrower. On such Closing Date, Lender shall have received an Officer's Certificate dated such date from Borrower, to the effect that the representations and warranties of Borrower contained in Section 3.1 are true and correct on such Closing Date with the same effect as though made on and as of said Closing Date, and that Borrower has performed and complied with all agreements and conditions herein contained or in any other Operative Agreement which are required to be performed or complied with by Borrower on or before said Closing Date.

Section 4.12 Opinions of Counsel. On such Closing Date Lender shall have received the favorable written opinions of counsel for Lessee, Guarantor, ICC Counsel, Borrower and Lender's Special Counsel, each substantially in the form set forth in the applicable Exhibit hereto.

Section 4.13 Corporate Documents. Lender shall have received such documents and evidence with respect to Borrower as Lender may reasonably request in order to establish the consummation of the transactions contemplated by this Loan Agreement, the taking of all corporate and other proceedings in connection therewith and compliance with the conditions herein or therein set forth, including, without limitation, records of corporate proceedings and incumbency of officers.

Section 4.14 Other Documents. Lender shall have received a copy of each item to be received by Lessor pursuant to Section 1(a) of Rider No. 3 to the extent not received by Lender pursuant to some other Section of this Section 4.

Section 4.15 No Threatened Proceedings. No action or proceeding shall have been instituted nor shall governmental action be threatened before any court or governmental agency, nor shall any order, judgment or decree have been issued or proposed to be issued by any court or governmental agency at the time of such Closing Date, to set aside, restrain, enjoin or prevent the completion and consummation of this Loan Agreement or the Overall Transaction.

Section 4.16 No Change in Law. On such Closing Date, no change shall have occurred in applicable law which, in the good faith judgment of Lender, would make the participation of Lender in the Overall Transaction illegal or subject any Lender to any tax (other than income tax), penalty or other liability or governmental regulation in connection with the Overall Transaction. No applicable law shall require the suspension or termination of any of the Operative Agreements.

Section 4.17 No Material Adverse Change. On such Closing Date, there shall have been no material change in the financial condition, business, earnings, properties, prospect or operations of Lessee or Guarantor since December 31, 1993.

Section 4.18 Legal Investment. The Notes shall on such Closing Date qualify as a legal investment for Lender (without reference to any so-called "basket clause" of any law or any clause that imposes limitations on particular investments in the aggregate or individually).

Section 4.19 Absence of Public Offering. Lender shall have received letters from Helm Financial Corporation with respect to the matters described in Section 3.1(g), in form and substance satisfactory to Lender.

SECTION 5 NOTES.

Section 5.1 Form of Notes. The Notes shall be substantially in the form set forth below:

[FORM OF NOTE]

THE FIRST NATIONAL BANK OF MARYLAND
NOTE DUE _____, ____

No. R-_____, 19__

THE FIRST NATIONAL BANK OF MARYLAND, a national banking association ("*Borrower*"), hereby promises to pay to THE MINNESOTA MUTUAL LIFE INSURANCE COMPANY, a Minnesota corporation, or its registered assignees, the principal sum of \$_____ together with interest on the unpaid principal amount of this Note from the date of this Note until paid at a rate per annum equal to 8.34% (computed on the basis of a 360-day year and twelve 30-day months). Such principal and interest are payable in one installment of interest only on [1994 Notes: January 1, 1995] [1995 Notes: June 1, 1995] and thereafter in [1994 Notes: _____] [1995 Notes: _____] consecutive monthly installments of principal and accrued interest in the amounts set forth in Exhibit A attached hereto and made a part hereof on the first (1st) day of each month, commencing [1994 Notes: February 1, 1995] [1995 Notes: July 1, 1995 or October 1, 1995] and continuing thereafter to and including [1994 Notes: _____, ____] [1995 Notes: _____, ____]; provided, however, that any amount of principal hereunder not paid when due (whether at stated maturity, by acceleration or otherwise) and (to the extent permitted by applicable law) Make-Whole Premium and overdue interest, shall bear interest computed as aforesaid at the Late Rate from the due date thereof, payable on demand. The last payment of principal and interest shall in all events be in an amount sufficient to discharge the accrued interest on, unpaid principal of and Make-Whole Premium, if any, on this Note. If any date upon which a payment is due hereunder is not a Business Day, then the amount otherwise payable on such date shall be due and payable on the next succeeding Business Day with the same force and effect as though made on such prior date and with no adjustment for interest.

This Note has been issued by Borrower under and pursuant to the terms of the Loan and Security Agreement dated as of December 15, 1994, (as amended or supplemented

the "*Loan Agreement*", the defined terms therein, not otherwise defined herein, being used herein with the same meanings), between Borrower and The Minnesota Mutual Life Insurance Company as the lender thereunder (hereinafter, together with its successors and assignees, called "*Lender*"). Reference is hereby made to the Loan Agreement for a statement of the rights of the Lender in, and the nature and extent of the security for, this Note and of certain rights of Borrower, including, but not limited to, the right to purchase the Note as contemplated by Section 9 of the Loan Agreement.

Except as provided in Section 10.9 of the Loan Agreement, all payments of principal and interest to be made by Borrower hereunder shall be made only from the income and proceeds from the Collateral in accordance with the terms of Sections 7, 8 or 9 of the Loan Agreement. Lender, by its acceptance of this Note, agrees that it will look solely to the income and proceeds from the Collateral for any amounts payable to it under this Note as provided in the Loan Agreement and that Borrower shall not be personally liable to Lender for any such amounts, except as provided in Section 10.9 of the Loan Agreement. Principal, Make-Whole Premium, if any, and interest shall be payable on the respective due dates at the office of Lender as Lender may advise Borrower in writing in lawful money of the United States of America in immediately available funds.

The Note is issuable as a registered Note in the amount of its face value. As provided in the Loan Agreement, and subject to certain limitations therein set forth, the transfer or exchange of this Note shall be registered on the register maintained therefor by Borrower at its office, initially located at 25 South Charles Street, Baltimore, Maryland 21201, or at such other office as Borrower may advise Lender in writing. Prior to due presentment for registration and transfer of this Note in accordance with the Loan Agreement, Borrower shall deem and treat the Person in whose name this Note shall be registered as the absolute owner and Lender for the purpose of receiving payment of all amounts payable by Borrower with respect to this Note, and for all other purposes, and Borrower shall not be affected by any notice to the contrary.

Lender, by its acceptance of this Note agrees that, except as otherwise provided in Sections 7 or 8 of the Loan Agreement, each payment received by it hereunder shall be applied, first, to the payment of accrued interest on this Note to the date of such payment and second, to the payment of the principal amount of and Make-Whole Premium, if any, on this Note then due (whether by maturity, prepayment, acceleration or otherwise).

This Note is not subject to prepayment except as contemplated by Sections 7 or 8 of the Loan Agreement; any such prepayment may result in a reduction in principal installment pursuant to Section 5 of the Loan Agreement. Upon the occurrence of a Loan Event of Default under and as specified in the Loan Agreement, the principal hereof and the interest accrued and unpaid thereon, under certain circumstances specified in the Loan Agreement, may become forthwith due and payable, which acceleration may thereafter be terminated under certain circumstances specified in the Loan Agreement.

Borrower agrees to pay all costs and expenses, including reasonable attorneys' fees, expended or incurred in connection with the enforcement of this Note, the collection of

any sums due hereunder or under the Loan Agreement, any actions for declaratory relief in any way related to this Note, or the protection or preservation of any rights of Lender, including any such costs and expenses incurred in connection with any appeal of a judgment.

This Note shall be governed by the laws of the State of New York.

IN WITNESS WHEREOF, Borrower has caused this Note to be executed in its corporate name by one of its authorized officers as of the date hereof.

THE FIRST NATIONAL BANK OF
MARYLAND

By _____
Its _____

THIS NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE SOLD OR TRANSFERRED WITHOUT SUCH REGISTRATION OR EXEMPTION THEREFROM UNDER THE ACT.

Section 5.2 Terms of Notes.

(a) **Generally.** The Notes are to be substantially in the form set forth in Section 5.1. The 1994 Notes shall have a final maturity date of January 1, 2015, and the 1995 Notes shall have a final maturity date of July 1, 2015. The Notes will (i) be dated the date of issue, (ii) bear interest from such date of issue at a rate per annum equal to Note Rate, computed on the basis of a 360-day year and twelve 30-day months and (iii) be payable in one installment of interest only on [1994 Notes: January 1, 1995] [1995 Notes: June 1, 1995] and thereafter in consecutive monthly installments of principal and accrued interest on the first (1st) day of each month, commencing [1994 Notes: February 1, 1995] [1995 Notes: July 1, 1995] and continuing thereafter to and including [1994 Notes: _____, ____] [1995 Notes: _____, ____]. The Notes shall bear interest (computed as aforesaid) at the Late Rate on any part of principal and (to the extent permitted by applicable law), Make-Whole Premium and overdue interest from the date thereof, payable on demand. The last payment of principal and interest shall in all events be in an amount sufficient to discharge the accrued interest on, unpaid principal of, and Make-Whole Premium, if any, on a Note.

(b) **Revision of Installments.** In the event of a prepayment of a Note of any Series pursuant to Section 7.2(a) with respect to any Item of the related Group, each future installment of principal and interest on such Note shall be reduced to an amount equal to the product obtained by multiplying (i) such installment by (ii) a fraction, the numerator of which shall be the Equipment Cost of all remaining Equipment in such Group and the denominator of which shall be the original Equipment Cost of all Items in such Group.

Section 5.3 Payments from Collateral Only. All payments to be made by Borrower under the Notes and this Agreement shall be made only from the income and the proceeds from the Collateral except as provided in Section 10.9 hereof. Lender, by its acceptance of a Note, agrees that it will look solely to the income and proceeds from the Collateral for any amounts payable to it under such Note as herein provided and that Borrower shall not be personally liable to Lender for any such amounts, except as provided in Section 10.9 hereof.

Section 5.4 Method of Payment. The principal of, Make-Whole Premium, if any and interest on the Notes will be payable on the due dates at the office of Lender or at such other office as Lender may advise Borrower in writing in lawful money of the United States of America in immediately available funds. Lender shall cause all amounts received by Lender in respect of the Notes or constituting Rent under the Lease to be distributed to Lender and to the other Persons to whom such amounts are due in accordance with Section 7. All such payments so made to Lender or upon its order shall be valid and, to the extent of the sum or sums paid, effectual to satisfy and discharge liabilities for moneys due on its Note. Notwithstanding any provision of the Note or of this Section 5.4 to the contrary, Borrower will pay Lender all amounts payable in respect of principal of, Make-Whole Premium, if any, and interest on the Notes without presentment thereof and without any notation of such payment being made on the Notes.

Section 5.5 Termination of Interest in Collateral. Lender shall have no further interest in, or other right with respect to, any Collateral (a) upon release of the Lien of this Loan Agreement in respect of such Collateral pursuant to Section 6.5, or (b) upon termination of this Loan Agreement.

Section 5.6 Registration of Notes; Transfer and Exchange. Borrower shall maintain at its office a register for the purpose of registering transfers and exchanges of the Notes. Prior to due presentment for registration of transfer of a Note in accordance with this Loan Agreement, Borrower shall deem and treat the Person in whose name such Note shall have been issued and registered as the absolute owner of such Note for the purpose of receiving payment of all amounts payable by Borrower with respect to such Note and for all other purposes, and, prior to due presentation for registration of transfer of such Note, Borrower shall not be affected by any notice to the contrary. If Lender intends to transfer such Note, or if Lender intends to exchange the Note for a new Note Lender, shall surrender the outstanding Note at the office of Borrower together with a written request for the issuance of a new Note, specifying in the case of a transfer the name and address of the transferee, and Borrower will, prior to the delivery of the Note make or cause to be made a notation thereon of the date to which interest has been paid thereon, and if not theretofore made, a notation on the Note of the extent to which payment has been made on account of the principal thereof. If required by Borrower in the case of a Note being presented for registration of transfer, the Note shall be accompanied by a written instrument of transfer in form satisfactory to Borrower duly executed by Lender or its duly authorized attorney. Promptly upon receipt of such instrument, Borrower shall execute and deliver a new Note or Notes of the same Series in the same original face amount and dated the same date or dates as the surrendered Note and registered in the name of the Lender or the transferee, as the

case may be; provided, however that if more than one new Note is to be issued upon a transfer or exchange of an outstanding Note the original face amount of each such new Note shall be not less than \$500,000 or such lesser amount as will represent all of the respective transferring Lender's Notes. Borrower shall make a notation on the new Note of the amount of all payments of principal previously made on the old Note with respect to which the new Note is issued and the date to which interest on the old Note has been paid. Borrower shall not be required to transfer or exchange the any Note as above provided during the period of ten (10) Business Days preceding the due date of any payment on such Note.

Section 5.7 Mutilated, Destroyed, Lost or Stolen Note. If any Note becomes mutilated, destroyed, lost or stolen, Borrower shall, upon the written request of Lender thereof execute and deliver to Lender, in replacement thereof, a new Note of the same Series, in the same face amount and dated the same date as the Note so mutilated, destroyed, lost, or stolen. If the Note being replaced has become mutilated, such Note shall be surrendered to Borrower for cancellation. If the Note being replaced has been destroyed, lost, stolen, or so mutilated that it is, in the reasonable opinion of Borrower, destroyed, Lender shall furnish to Borrower such security or indemnity as may be required by Borrower to save it harmless and evidence satisfactory to Borrower of the destruction, loss, or theft of the Note and the ownership thereof, provided, however, that if Lender is an institutional investor with a net worth of \$100,000,000 or more, the written indemnity of Lender delivered to Borrower shall be sufficient security and indemnity. Borrower shall make a notation on the new Note of the amount of all payments of principal previously made on the mutilated, destroyed, or stolen Note with respect to which the new Note is issued and the date to which interest on the old Note has been paid.

Section 5.8 Payment of Expenses on Transfer. Upon the issuance of a new Note or Notes pursuant to Section 5.6 or 5.7, Borrower may require from Lender payment of a sum sufficient to reimburse Borrower for, or to provide funds for, the payment of any tax or other governmental charge or any charges and expenses connected with such tax or other governmental charge paid or payable by Borrower in connection with such issuance.

SECTION 6 SECURITY INTEREST.

Section 6.1 Grant of Security. As security for the Secured Indebtedness, Borrower hereby assigns, transfers and grants to Lender and its successors and permitted assignees as the "Lender" for the benefit of Lender a security interest in all right, title and interests of Borrower in and to the following property, whether tangible or intangible, wherever located or situated, whether now existing, owned or held or hereafter acquired or arising, excluding the Excepted Rights in Collateral (all of which property, other than the Excepted Rights in Collateral, collectively and severally, the "*Collateral*"):

(a) All accounts, contract rights, general intangibles, chattel paper, instruments, documents, money, deposit accounts, goods, equipment, inventory and uncertificated securities consisting of or arising from any of the following:

(i) all Equipment leased or to be leased to the Lessee by Borrower pursuant to the Lease, including, without limitation, the Items of Equipment described in each Lease Supplement and each Loan Supplement executed and delivered on each Closing Date, the form of which Loan Supplement is attached hereto as Exhibit G and made a part hereof, together with (A) all Parts, whether now owned or hereafter acquired, which become the property of Borrower under the Lease, (B) all substitutions, renewals or replacements of and additions, improvements, accessions and accumulations to any and all of such Equipment, which become the property of Borrower under the Lease, together with all the rents, issues, income and profits therefrom, and (C) any and all payments or proceeds payable to Borrower with respect to any Item as the result of the sale, lease or other disposition thereof.

(ii) the Lease, including all extensions of the terms of the Lease, together with all rights, powers, privileges, options and benefits of Borrower as Lessor under the Lease, including, without limitation:

(A) the immediate and continuing right to receive and collect (for application as provided in the Lease and this Loan Agreement) all Interim Rent, Monthly Rental and other Rental (including, with limitation, any Stipulated Loss Value and Termination Value payments), insurance proceeds, condemnation awards, patent indemnity payments and other payments, tenders and security now or hereafter payable to or receivable by Borrower under the Lease;

(B) subject to Section 9.8 hereof, the right (i) to receive from Lessee certificates, notices and other documents and information which Lessee is required to give or furnish to Borrower and (ii) to inspect the Equipment and all records relating thereto;

(C) subject to Section 9.8 hereof, the right to make all waivers and agreements and to enter into any amendment relating to the Lease or any provision thereof; and

(D) subject to Borrower's rights under Section 9.4 and the obligation of Lender set forth in Section 9.2(e), the right to take such action upon the occurrence of a Lease Default, including the commencement, conduct and consummation of legal, administrative or other proceedings, as shall be permitted by the Lease or at law or in equity, and to do any and all other things whatsoever which Borrower is or may be entitled to do under the Lease, it being the intent and purpose hereof that the assignment and transfer to Lender of said rights, powers, privileges, options and other benefits shall be an immediate and present assignment;

(iii) the Bill of Sale, the Purchase Agreement Assignment and any and all other contracts and agreements transferring to Borrower title to the Equipment or otherwise relating to the Equipment (including any sublease thereof) or any rights

or interest therein to which Borrower is now or thereafter a party or the beneficiary thereof and all representations, warranties and covenants contained therein (collectively, with the Lease, the "*Assigned Agreements*"), together with all rights, powers, privileges, licenses, easements, options and other benefits of Borrower under each Assigned Agreement, including, without limitation:

(A) subject to Section 9.8, the immediate and continuing right to make all waivers and agreements relating to the Assigned Agreements or any provision thereof;

(B) subject to Section 9.8, the right to give and receive all notices and other instruments or communications; and

(C) subject to Borrower's rights under Section 9.4 and the obligation of Lender set forth in Section 9.2(e), the right to take such action upon the occurrence of a default thereunder, including the commencement, conduct and consummation of legal, administrative or other proceedings, as shall be permitted thereby or at law or in equity, and to do any and all other things which Borrower is or may be entitled to do thereunder, it being the intent and purpose hereof that the assignment and transfer to Lender of said rights, powers, privileges, licenses, easements, options and other benefits shall be an immediate and present assignment.

(iv) the Guaranty, including all extensions and modifications of the terms of the Guaranty, together with all rights, powers, privileges, options and to the benefits of Borrower as beneficiary under the Guaranty, including, without limitation: (1) the immediate and continuing right to receive and collect all payments, payable to or receivable by Borrower under the Guaranty; (2) subject to Section 9.8 of this Loan Agreement, to receive from the Guarantor notices and other documents and information which Guarantor is required to give or furnish to Borrower, (3) subject to Section 9.8 of this Loan Agreement, the right to make all waivers and agreements and to enter into any amendment relating to the Guaranty or any provision thereof; (4) subject to Borrower's rights under Section 9.4 of this Loan Agreement and the obligation of the Lender set forth in Section 9.2(e) of this Loan Agreement, the right to take such action upon the occurrence of a Lease Default, including the commencement, conduct and consummation of legal, administrative or other proceedings, as shall be permitted by the Guaranty or at law or in equity, and to do any and all other things whatsoever which Borrower is or may be entitled to do under the Guaranty, it being the intent and purpose hereof that the assignment and transfer to Lender of said rights, powers, privileges, options and other benefits shall be an immediate and present assignment.

(v) any and all moneys and other property (including, without limitation, each amendment or supplement to any and all property included in the Collateral) which may from time to time, by delivery to Lender or by any instrument, including, without limitation, this Loan Agreement or any Loan

Supplement, be expressly subjected to the lien hereof by Borrower or by anyone on its behalf or with its express consent, or pursuant to any instrument included in the Collateral, it being the intention of Borrower and Lender and it being hereby agreed by them that all property hereafter acquired by Borrower and required under the terms hereof to be subjected to the lien of this Loan Agreement or intended so to be shall forthwith upon the acquisition thereof by Borrower be as fully embraced within the lien of this Loan Agreement as if such property were now owned by Borrower and were specifically described in this Loan Agreement, and Lender is hereby authorized to receive any and all such property as and for additional security for the payment of the Secured Indebtedness; and

(b) all proceeds of the foregoing (including, without limitation, whatever is receivable or received when Collateral or proceeds is sold, collected, exchanged or otherwise disposed of, whether such disposition is voluntary or involuntary, including rights to payment and return premiums and insurance with respect to any Collateral, and all rights to payment with respect to any cause of action affecting or relating to the Collateral).

Section 6.2 Financing and Continuation Statements. Without limiting the generality of Section 10.11, Borrower hereby authorizes Lender to file one or more financing or continuation statements, and amendments thereto, relative to all or any part of the Collateral, without the signature of Borrower where permitted by law. A carbon, photographic or other reproduction of this Loan Agreement or any financing statement covering the Collateral or any part thereof shall be sufficient as a financing statement where permitted by law.

Section 6.3 No Legal Title to Collateral in Lender. Lender has no legal title to any part of the Collateral. No transfer, by operation of law or otherwise, of any Note or other right, title or interest of Lender in and to the Collateral or hereunder shall operate to terminate this Loan Agreement or entitle any successor or transferee of Lender or Lessor to an accounting or to the transfer to it of legal title to any part of the Collateral.

Section 6.4 Limitation on Lender's Duty in Respect of the Collateral. Lender shall not have any duty as to any Collateral in its possession or control or in the possession or control of any agent or nominee of it or any income thereon or as to the preservation of rights against prior parties or any other rights pertaining thereto beyond the safe custody and preservation thereof in accordance with applicable law.

Section 6.5 Release of Items.

(a) **Partial Termination of Lease upon Casualty.** If (i) the Lease for any Item is terminated pursuant to Section 9(c) of the Master Lease or Rider No. 2, (ii) no Lease Event of Default has occurred and is continuing and (iii) Lender has received payment in full of (A) the Stipulated Loss Value for such Item or (B) the Termination Value for such Item together with any Make-Whole Premium due in connection with such termination, as the case may be, the lien of this Loan Agreement in such Item shall, without further act, be released and extinguished, and Lender shall, at the expense of the requesting

party, execute and deliver to, or as directed by, Borrower such instruments (in due form for recording) as may be reasonably requested and furnished by Borrower, releasing such Item from the lien of this Loan Agreement and from the assignment and pledge thereof hereunder.

(b) **Payment in Full of Secured Indebtedness.** Upon payment in full of all the principal of, Make-Whole Premium, if any, and interest on the Notes pursuant to the terms thereof and hereof and payment or performance of the other Secured Indebtedness, the lien of this Loan Agreement shall, without further act, be extinguished with respect to the Collateral and Lender shall, upon the written request and at the expense of Borrower, execute and deliver to or as directed by, Borrower such instruments (in due form for recording) as may be reasonably requested and furnished by Borrower releasing the Equipment from the lien of this Loan Agreement and releasing the Collateral from the assignment and pledge thereof hereunder.

(c) **Replacement.** If, pursuant to Section 9(c) of the Master Lease, an Item as to which an Event of Loss has occurred is replaced, (i) the Lien of this Loan Agreement in such Item shall, without further act, be released and extinguished, and Lender shall, at the expense of Lessor, execute and deliver to, or as directed by, Lessor such instruments (in due form for recording) as may be reasonably requested and furnished by Lessor releasing such Item from the Lien of this Loan Agreement and from the assignment and pledge thereof hereunder, (ii) all provisions of this Loan Agreement relating to such damaged or destroyed Item shall be applicable to the replacement Item with the same force and effect as if such replacement Item were the same Item as the Item being replaced and (iii) Lessor shall execute, deliver and file such instruments as are requested by Lender to perfect the security interest of Lender in such replacement Item.

(d) **Restrictions on Release.** Notwithstanding any provision of this Loan Agreement to the contrary, there shall be no release of the Lien of this Loan Agreement except as provided in this Section 6.5.

Section 6.6 Borrower to Remain Liable. It is expressly agreed by Borrower that, anything herein to the contrary notwithstanding, Borrower shall remain liable under each Operative Agreement (in the capacities as stated therein) to observe and perform all the conditions and obligations to be observed and performed by it thereunder, all in accordance with and pursuant to the terms and provisions of each such Operative Agreement. Lender shall not have any obligation or liability under any Operative Agreement by reason of the assignment thereof to Lender pursuant hereto, nor shall Lender be required or obligated in any manner to perform or fulfill any of the obligations of Borrower under or pursuant to any Operative Agreement, or to make any payment, or to make any inquiry as to the nature or the sufficiency of any payment received by it or the sufficiency of any performance by any party under any Operative Agreement, or to present or file any claim, or to take any action to collect or enforce any performance or the payment of any amounts which may have been assigned it or to which it may be entitled at any time or times.

**SECTION 7 RECEIPT, DISTRIBUTION, AND APPLICATION OF INCOME
FROM THE COLLATERAL.**

Section 7.1 Receipt of Funds.

(a) **Monthly Rental and Interim Rent.** Except as otherwise provided in this Section 7, each payment of Monthly Rental and Interim Rent with respect to either Group of Equipment, and any interest on overdue installments of such Monthly Rental and Interim Rent with respect to either Group of Equipment, received by Lender shall be applied or distributed by Lender in the following order of priority: first, so much of such payment as shall be required to pay in full the interest (including but not limited to interest on overdue principal and, to the extent permitted by applicable law, overdue interest) then due under each Note of the related Series of Notes shall be retained by Lender; second, so much of such payment as shall be required to pay in full the principal amount then due under each Note of the related Series of Notes, whether by maturity, prepayment acceleration or otherwise shall be retained by Lender; and third, the balance, if any, of such payment remaining thereafter shall be distributed by Lender to Borrower.

(b) **Other Rental.** Except as otherwise provided in this Section 7, the amount, if any, from time to time received by Lender which constitutes payment of Rental with respect to either Group of Equipment other than Interim Rent and Monthly Rental with respect to such Group shall be applied by Lender as follows:

(i) **Stipulated Loss Value and Termination Value payments** shall be applied as set forth in Section 7.2(a),

(ii) all other amounts of such Rental shall be applied first, so much of such payment as shall be required to pay in full any other Secured Indebtedness then due and owing shall be distributed to each Person who shall promptly certify that such Secured Indebtedness is then due and owing ratably in the proportion that the amount then due such Person bears to the aggregate amount of all such Secured Indebtedness, and second, the balance, if any, shall be paid to or upon the order of Borrower.

(c) **Insurance Proceeds.** So long as no Lease Event of Default has occurred and is continuing, the amounts, if any, received by Lender from time to time that constitute proceeds of property or casualty insurance maintained by Lessee on each Item of Equipment shall be held by Lender as a part of the Collateral and shall be applied by Lender from time to time as follows:

(i) If such Item is to be repaired or restored, such proceeds shall be released to Borrower to pay to Lessee the full amount of such proceeds within five (5) days following receipt by Lender of a written application signed by Lessee for payment accompanied by an Officer's Certificate of Lessee stating that (A) Lessee has complied with the applicable provision of the Lease, (B) no Lease Event of Default has occurred and is continuing and (C) any damage to such Item has been fully repaired or restored as required by the Lease.

(ii) If Lessee has notified Lender in writing that the Lease is to be terminated in respect of such Item in accordance with the provision of Section 9(c) of the Master Lease, then the insurance proceeds shall be applied by Lender as set forth in Section 7.2(a), provided that if (A) the Stipulated Loss Value due as a result of the termination of the Lease with respect to such Item has already been paid in full or (B) Lessee has substituted a replacement Item pursuant to Section 9(c) of the Master Lease, the insurance proceeds shall, upon the receipt thereof by Lender, be paid to Lessee.

Any portion of any such amount that is not so paid to Lessee because a Lease Event of Default has occurred and is continuing shall, at Lender's option, be held by Lender and paid to Lessee at such time as there is not continuing any Lease Event of Default or applied as provided in Section 7.3.

(d) **Condemnation Awards.** So long as no Lease Event of Default has occurred and is continuing, any amounts received by or payable to Lender from time to time which constitute the award, compensation or damages payable for the condemnation or taking (including, without limitation, pursuant to Section 11 of Rider 1 to the Lease) of all or any Item of Equipment for any public or quasi-public use (less the actual costs, fees and expenses incurred in the collection thereof) (i) shall be (A) paid to or upon the order of Borrower or Lessee, as their interest may appear, if such condemnation or taking does not constitute an Event of Taking or (B) paid to Lessee if Lessee has replaced such Item as provided in Section 9(c) of the Master Lease or paid the Stipulated Loss Value due as a result of the termination of the Lease, and (ii) otherwise shall be applied in accordance with Section 7.2(a).

Section 7.2 Prepayments.

(a) Mandatory Prepayments.

(i) **Event of Loss; Event of Taking.** Except as otherwise provided in this Section 7, if any Item of either Group suffers any Event of Loss or Event of Taking and Lessee has not substituted a replacement Item therefor pursuant to Section 9(c) of the Master Lease, Lender shall (A) promptly, but in any event, not more than 5 days after receiving notice of such event from Lessee or Lender, provide notice to the Lender holding the related Series of Notes setting forth a brief description of such event, the calculation and date of the amounts to be paid by Borrower relating thereto and (B) cause to be prepaid (without Make-Whole Premium) in accordance with and subject to the provisions of Section 8 on the date on which the Stipulated Loss Value for such Item is payable under the Lease, Notes of the related Series in a principal amount equal to the product obtained by multiplying the principal amount of all Notes of such Series outstanding at the time of such prepayment (after deduction for principal then due and paid out of the related Monthly Rental pursuant to Section 7.1(a)) by a fraction, the numerator of which is the Equipment Cost of such Item and the denominator of which is the Equipment Cost of all Equipment in the same Group as such Item and still subject to the Lease including such Item (determined prior to the termination of the Lease with respect to such Item). The amount paid to Lender under Section 9(c) of the Master Lease or Section 11 of Rider No. 1 to the Lease in respect of a

Item of either Group as its Stipulated Loss Value shall be distributed in the following order of priority: first, so much of such amount as shall be required to prepay the aforesaid pro rata portion of the principal amount of such Notes of the related Series to be prepaid together with interest accrued on such principal amount prepaid to the date of prepayment (including but not limited to interest on overdue principal and, to the extent permitted by applicable law, overdue interest), shall be distributed to Lender or holders of the Notes ratably, in the proportion that the amount of such prepayment of principal and interest under each such Notes of the related Series bears to the aggregate amount of such prepayment of principal and interest then due on all such Notes of the related Series, second, so much of such as shall be required to pay in full any other Secured Indebtedness then due and owing shall be distributed to such Person who shall promptly certify that such Secured Indebtedness is then due and owing ratably in the proportion that the amount then due to such Person bears to the aggregate amount of all such Secured Indebtedness then due and owing; and third, the balance, if any, of such amount remaining thereafter shall be distributed by Lender to Borrower.

(ii) **Event of Termination.** Except as otherwise provided in this Section 7, if the Lease terminates with respect to any Item of either Group pursuant to Rider No. 2 to the Lease, Lender shall cause to be prepaid in accordance with and subject to the provisions of Section 8 on the date of such termination, Notes of the related Series in an aggregate principal amount equal to the product obtained by multiplying the principal amount of all Notes in such Series outstanding at the time of such prepayment (after deduction for principal then due and paid out of related Monthly Rental pursuant to Section 7.1(a)) by a fraction, the numerator of which is the Equipment Cost of such terminated Item and the denominator of which is the Equipment Cost for all Equipment in the same Group as such terminated Item still subject to the Lease including such terminated Item (determined prior to the termination of the Lease with respect to such terminated Item). There shall also be due and owing in connection with any such prepayment a Make-Whole Premium with respect to the principal being prepaid. The amounts paid to Lender under said Rider No. 2 in respect of a terminated Item of either Group shall be distributed in the following order of priority: first, so much of such amount as shall be required to prepay the principal amount of the Notes of the related Series to be prepaid in respect of such termination together with Make-Whole Premium and interest accrued on such principal amount prepaid to the date of prepayment (including but not limited to interest on overdue principal and, to the extent permitted by applicable law, overdue interest) shall be distributed to Lender or the holders of such Notes ratably, in the proportion that the amount of such prepayment of principal, Make-Whole Premium, and interest under each such Note bears to the aggregate amount of such prepayment of principal, Make-Whole Premium and interest then due on all such Notes of the related Series; second, so much as shall be required to pay in full any other Secured Indebtedness then due and owing shall be distributed to such Person who shall promptly certify that such Secured Indebtedness is then due and owing ratably, in the proportion that the amount then due to each such Person bears to the aggregate amount of all such Secured Indebtedness then due and owing, and third, the balance, if any, of such amount remaining thereafter shall be distributed to Borrower

(b) **No Optional Prepayment.** There shall be no prepayment of any Note except as permitted or contemplated under this Section 7.

Section 7.3 Payment After Loan Event of Default. All payments received and amounts realized by Lender as part of the Collateral after a Loan Event of Default shall have occurred and be continuing (including but not limited to any amounts realized by Lender from the exercise of any remedies pursuant to Section 11 of the Master Lease, but excluding any payment made by Borrower pursuant to Section 9.4, as well as all payments or amounts then held or thereafter received by Lender as part of the Collateral while such Loan Event of Default shall be continuing (except any amounts held by Lender for prepayment of the Note or portions thereof which became due and payable before a Lease Event of Default occurred)) shall be distributed forthwith or retained by Lender in the following order of priority: first, so much of such payments or amounts as shall be required to reimburse Lender for any tax or other expense (including but not limited to reasonable attorneys' fees and disbursements, which shall include reasonable attorneys' fees and disbursements on appeal) incurred by Lender (to the extent not previously reimbursed and to the extent incurred in connection with its duties as Lender) shall be retained by Lender; second, if any interest on the Notes is due and unpaid, so much of such payments or amounts remaining as shall be required to pay the interest accrued to the date of distribution under the Notes shall be retained by Lender; third, if any principal and Make-Whole Premium on the Notes is due and unpaid, whether by maturity, prepayment, acceleration, or otherwise, so much of such payments or amounts remaining as shall be required to pay in full such unpaid principal and Make-Whole Premium, if any, on each Note shall be retained by Lender; fourth, so much of such payments as shall be required to pay in full any other Secured Indebtedness shall be distributed to each Person who properly certifies such Secured Indebtedness is owing, ratably in the proportion that the amount then due to such Person bears to the aggregate amount of all such Secured Indebtedness then due and owing, and fifth, the balance, if any, of such payments or amounts remaining thereafter shall be distributed by Lender to Borrower.

Section 7.4 Application of Payments According to Lease Provisions.

(a) **In General.** All payments received by Lender that are not part of the Collateral and except as otherwise provided in this Section 7, any other payments received by Lender for the application of which is made in the Lease shall be applied as provided in the Lease.

(b) **Excepted Rights in Collateral.** Any amounts received by Lender in payment of any Excepted Rights in Collateral shall be promptly forwarded to the party to whom such payment is owed.

Section 7.5 Other Payments. Except as otherwise provided in this Section 7, (a) any payments received by Lender as part of the Collateral for which no provision as to the application thereof is made in the Lease or elsewhere in this Section 7, (b) all payments received and amounts realized by Lender as part of the Collateral under the Lease or otherwise with respect to the Equipment in either Group (including but not limited to all amounts realized upon the sale of such Equipment after the termination of the Lease

with respect thereto), to the extent received or realized at any time after payment in full of the principal of, Make-Whole Premium, if any, and interest on the Notes of the related Series and payment and performance of all other Secured Indebtedness has been made or duly provided for, and (c) any other amount remaining as part of the Collateral after payment in full of the principal of, Make-Whole Premium, if any, and interest on the Notes in any Series and payment and performance of all other Secured Indebtedness has been made or duly provided for shall be distributed by Lender in the following order of priority: first, so much of such payments or amounts as shall be required to reimburse Lender for any tax or other expense (including but not limited to reasonable attorneys' fees and disbursements, which shall include reasonable attorneys fees and disbursements on appeal) incurred by Lender (to the extent not previously reimbursed and to the extent incurred in connection with its duties as Lender) shall be distributed to Lender, and second, the balance, if any, of such payments or amounts remaining thereafter shall be distributed by Lender to Borrower.

Section 7.6 Distribution After Loan Default. Anything in this Section 7 to the contrary notwithstanding, if a Loan Default has occurred and is continuing, Lender shall not make any distributions to Borrower or Lessee under this Section 7 but shall hold all such distributions as part of the Collateral subject to Section 7.7.

Section 7.7 Funds Held By Lender. Any amounts (including any investment income thereon) otherwise payable to Borrower or Lessee pursuant hereto held by Lender due to the occurrence and continuance of a Loan Default hereunder shall be held by Lender as part of the Collateral and invested as hereinafter provided in this Section 7.7 until the earliest to occur of (a) the date on which such Loan Default shall have been cured or waived, (b) the date on which the Notes shall have been accelerated pursuant to Section 9, (c) the date on which Lender is stayed from exercising any such remedy (or otherwise be prevented from doing so by law, court order, or judgment), or (d) one year from the commencement of such Loan Default. If the earliest to occur is an event referred to in clause (a) above, such sum so withheld plus earnings thereon shall be distributed to Borrower or Lessee, as the case may be. If the earliest to occur is an event referred to in clause (d) above, such sum withheld plus earnings thereon shall be distributed pursuant to Section 7.1(b). If the earliest to occur is an event referred to in clause (b) above or an event referred to in clause (c) above which is continuing, such sum so withheld (including any investment income thereon) shall be held as part of the Collateral and applied in the manner provided in Section 7.3 if Lender is not stayed, or otherwise prevented by law, court order, or judgment, from doing so, or, if so stayed or prevented from doing so, held by Lender as part of the Collateral and invested as hereinafter provided in this Section 7.7. Funds held by Lender pursuant to this Section 7.7 plus earnings thereon shall be invested by Lender as directed from time to time in writing by Borrower and at the expense and risk of Borrower in Permitted Investments.

Section 7.8 Payments to Borrower. Lender will pay all amounts payable by Lender to Borrower as requested by Borrower at least five (5) Business Days prior to the due date of the payment, (a) unless otherwise requested pursuant to clause (b) below, by transferring the amount to be distributed to Borrower by wire transfer of immediately available funds to any bank in the United States which is a member of the Federal Reserve

System as shall have been specified in such notice, for credit to the account of Borrower maintained at such bank or (b) by any other method requested by Borrower that is acceptable to Lender. If no such request is made, Lender shall make such payment by check payable to Borrower.

SECTION 8 PREPAYMENT OF THE NOTES.

Section 8.1 Applicability of Article. Prepayment of the Notes, if required or permitted by any provision of Section 7 or Section 9, shall be made in accordance with such provisions and this Section 8.

Section 8.2 Method of Payment. If any notice of prepayment is given as provided in Section 7.2, the Notes (or specified portions thereof) designated for prepayment shall become due and payable on the date and at the place specified in said notice in accordance with Section 5.4 and Section 7.2, together with the Make-Whole Premium, if any, and interest accrued on the principal amounts to be prepaid to the prepayment date.

Section 8.3 Cessation of Interest. If any Note or specified portion thereof has become due and payable as provided in Section 8.2 and Lender shall have received funds available and in amount sufficient to effect such prepayment (including Make-Whole Premium and interest on overdue amounts, if any), interest shall cease to accrue on such Note or specified portion thereof on and after the later of the date specified for prepayment thereof and the date such funds are received.

SECTION 9 REMEDIES OF LENDER.

Section 9.1 Loan Default.

(a) Definition of Borrower Event of Default. Each of the following is called a *"Borrower Event of Default"*:

(i) (A) Borrower defaults in making any payment under the Notes and such default continues for thirty (30) Business Days or (B) Borrower defaults in performing any of its other obligations hereunder or under the Notes and any such default shall continue for thirty (30) days after receipt of written notice to Borrower from Lender (or if such default is curable, the continuance of such failure for up to 120 days after such notice if during such 120-day period the Borrower shall be diligently attempting to cure such breach); or

(ii) Any representation or warranty made by Borrower in the Operative Agreements or herein or in any certificate furnished to Lender in connection herewith or therewith or pursuant hereto or thereto proves to be false or incorrect in any material respect when made or given and such incorrectness continues to be material and

unremedied for a period of thirty (30) days after knowledge thereof by a Responsible Officer of Borrower; or

(iii) Borrower (A) applies for or consent to the appointment of a trustee, receiver, liquidator, custodian or the like of itself or its property, (B) is unable, or admits in writing the inability, to pay its debts as they mature, (C) makes an assignment for the benefit of creditors, (D) commences a voluntary case under the Bankruptcy Code, (E) files a petition or answer seeking reorganization or an agreement with creditors or to take advantage of any insolvency law or other law providing for the relief of debtors or an answer admitting the material allegations of a petition filed against it in any bankruptcy, reorganization or insolvency proceeding or (F) takes any corporate action for the purpose of effecting any of the foregoing; or

(iv) An involuntary case under a chapter of the Bankruptcy Code, as amended, is commenced, or any other proceeding is instituted without the application, approval, or consent of Borrower seeking in respect of Borrower reorganization, dissolution, winding up, liquidation, a composition or arrangement with creditors, a readjustment of debts, the appointment of a trustee, receiver, liquidator, custodian, or the like of Borrower or of all or any substantial part of its assets or other like relief or the issuance of a writ of attachment, execution or similar process in a material amount against any material part of the property of Borrower, and Borrower either fails to contest such proceedings in good faith or such proceedings continues for any period of sixty (60) consecutive days.

(b) **Definition of Lease Event of Default.** Each of the following is called a "*Lease Event of Default*": an "Event of Default" as defined in Section 11(a) of the Master Lease other than an Event of Default arising solely as a result of the failure of the Lessee to make a payment with respect to the Excepted Rights in Collateral.

(c) **Definition of Loan Event of Default.** Each of the following is called a "*Loan Event of Default*": (i) a Borrower Event of Default or (ii) a Lease Event of Default.

Section 9.2 Remedies; Acceleration.

(a) **Remedies Generally.** Subject to Borrower's rights under Section 9.4 and the obligation of Lender set forth in Section 9.2(e) and subject to Lessee's right of quiet possession and enjoyment if the Loan Event of Default is not a Lease Event of Default, if a Loan Event of Default occurs and is continuing, Lender, as assignee hereunder of the Lease or as secured party hereunder of the property included in the Collateral or otherwise, may exercise (a) any or all of the rights and powers and pursue any and all of the remedies of a secured party under the Uniform Commercial Code as in effect in the applicable jurisdiction and otherwise available to Lender at law or in equity, and (b) any one or more of the remedies hereinafter set forth and may proceed to foreclose the lien and security interest of this Loan Agreement including, without limitation, taking possession of the Collateral and excluding Borrower and all Persons claiming under it totally or partly therefrom.

(b) **Acceleration.** Subject to Borrower's rights under Section 9.4 and the obligation of Lender set forth in Section 9.2(e) and subject to Lessee's right of quiet possession and enjoyment if the Loan Event of Default is not a Lease Event of Default, if a Loan Event of Default occurs and is continuing, Lender may by written notice to Borrower declare the entire principal amount of the Notes to be due and payable. Thereupon the unpaid principal amount of all Notes then outstanding with accrued interest thereon shall immediately become due and payable without further act or notice of any kind. If the Lease terminates pursuant to Section 11(b) thereof, the unpaid principal amount of all Notes then outstanding with accrued interest thereon shall immediately become due and payable without further act or notice of any kind.

(c) **Lender May Exercise Rights of Borrower.** Subject to Borrower's rights under Section 9.4, if a Lease Event of Default occurs and is continuing, Lender may proceed to exercise all rights, privileges and remedies of Borrower under the Lease and may exercise all such rights and remedies either in the name of Lender or in the name of Borrower for the use and benefit of Lender.

(d) **Judicial and Equitable Remedies.** If a Loan Event of Default occurs and is continuing, Lender may proceed to protect and enforce this Loan Agreement and the Notes by suit or suits or proceedings, in equity, at law or in bankruptcy, and whether for the specific performance of any covenant or agreement herein contained or in execution or aid of any power herein granted; or for foreclosure proceedings, or for the appointment of a receiver or receivers for the Collateral or any part thereof for the recovery of judgment for the Secured Indebtedness or for the enforcement of any other proper, legal or equitable remedy available under applicable law.

(e) **Borrower Protection.** Notwithstanding the foregoing, or anything contained in this Loan Agreement to the contrary, if any Loan Event of Default results solely from the occurrence of one or more Lease Events of Default, Lender shall not exercise any remedy under this Loan Agreement unless it is then exercising in good faith one or more remedies under the Lease and, in addition, shall not foreclose the lien and security interest of this Loan Agreement unless the maturity of the Notes has been accelerated pursuant to Section 9.2(b) and Lender is then exercising in good faith one or more remedies under the Lease for the purpose of repossessing the Equipment; provided, however, that Lender shall not be limited in exercising remedies hereunder if and to the extent Lender is then prevented by operation of law or stayed by law, court order or judgment from exercising such remedy or remedies against Lessee.

Section 9.3 Taking Possession of Collateral; Rights of Lender. Subject to Borrower's rights under Section 9.4 and the obligation of Lender set forth in Section 9.2(e), Borrower agrees, to the full extent that it lawfully may, that if a Lease Event of Default occurs and is continuing, Lender may, either personally or through its agents and attorneys, take immediate possession of all or any part of the Collateral and for that purpose may pursue the same wherever it may be found and may enter any of the premises of Borrower, with or without notice, demand, process of law or other legal process and search for take possession of, remove, keep and store the same, or use or operate or lease the same until

sold, and collect and receive all earnings, revenues, rents, issues, proceeds and income of the Collateral and every part thereof, and make alterations thereon or remove and dispose of all or any portion of the Collateral and otherwise exercise any and all of the rights and powers of Borrower with respect thereof and may exclude Borrower and all Persons claiming under Borrower wholly or partly therefrom. Lender may, if at the time such action may be lawful and always subject to compliance with any mandatory legal requirements, either with or without taking possession and either before or after taking possession, and without instituting any legal proceedings whatsoever, sell and dispose of all of the Collateral, or any part thereof, and all estate, right, title, interest, claim, and demand therein, at one or more public or private sales, as an entirety or otherwise and upon such terms as Lender may determine. Lender shall give Borrower notice of the time and place of such sale in writing at least ten (10) Business Days prior to the date of such sale, or as may be expressly required by law.

To the extent that it lawfully may, Borrower agrees that it will not at any time insist upon, or plead, or in any manner whatever claim or take any benefit or advantage of, any applicable present or future stay, extension, or moratorium law which may affect observance or performance of the provisions of this Loan Agreement or the Notes, nor claim, take, or insist upon any benefit or advantage of any present or future law providing for the valuation or appraisal of the Collateral or any portion thereof prior to any sale or sales thereof which may be made under or by virtue of this Section 9 or pursuant to the decree, judgment or order of any court of competent jurisdiction, nor after any such sale or sales, claim or exercise any right, under any applicable present or future law or otherwise, to redeem the Collateral or any portion thereof so sold; and Borrower, to the extent that it lawfully may, expressly waives all benefit or advantage of any such law or laws, and covenants not to invoke or utilize any such law or laws hinder, delay or impede the exercise of any right or remedy herein permitted to be exercised by Lender, but to suffer and permit the exercise of every such right or remedy as though no such law or laws were in effect. Borrower, for itself and all who may claim under it, waives, to the extent that it lawfully may, all right to have the Collateral or any other security for the Notes or any thereof marshaled upon any foreclosure. At the request of Lender, Borrower shall promptly execute and deliver to Lender such instruments of title and other documents as Lender may deem necessary or advisable to enable Lender or an agent or representative designated by Lender at such time or times and place or places as Lender may specify, to obtain possession of all or any part or any rights in respect of the Collateral to the possession of which Lender shall at the time be entitled hereunder. Any sale, whether under any power of sale hereby given or by virtue of judicial proceedings, shall operate to divest all right, title and interest, claim and demand whatsoever, either at law or in equity, of Borrower in and to the property sold, and shall be a perpetual bar, both at law and in equity, against Borrower, its successors and assigns, and against any and all Persons claiming the property sold or any part thereof under, by or through Borrower, its successors or assigns.

Section 9.4 Certain Rights of Borrower. Notwithstanding any other provision of this Loan Agreement, if any Loan Event of Default shall have occurred and be continuing, Borrower shall have the following rights hereunder:

(a) Right to Cure.

(i) If any Loan Event of Default occurs solely because of a Lease Event of Default, Borrower shall, for the applicable period ending five (5) Business Days or thirty (30) calendar days after delivery of notice to Borrower and Lessee by Lender demanding that such Lease Event of Default be cured (the "*Five-Day Cure Period*", and the "*Thirty-Day Cure Period*", respectively), have the right, but shall not be obligated, to cause such Loan Event of Default to be cured as follows:

(A) If, as a result of such a Lease Event of Default in respect of the payment of Monthly Rental under the Lease, there are insufficient funds to pay any payment of principal of and interest on any Note on the day it becomes due and payable, Borrower may, but shall not be obligated to, at any time prior to the expiration of the Five-Day Cure Period pay to Lender an amount equal to any principal and interest (including but not limited to interest, if any, on overdue payments of principal and to the extent permitted by Applicable Law, interest) then due and payable on the Notes, such amounts to be applied as if there was no Loan Event of Default. If Borrower makes such payment on or before the expiration of the Five-Day Cure Period, such payment shall be deemed to cure any Loan Event of Default which would otherwise have arisen on account of the nonpayment by Lessee of Monthly Rental under the Lease; provided, however, that such right to cure shall be subject to the following Limitations:

(1) no more than eighteen (18) such Lease Events of Default occasioned by consecutive defaults in respect of the payment of Monthly Rental may be cured through the exercise of such right, and

(2) no more than thirty-six (36) Lease Events of Default in respect of the payment of Monthly Rental may be cured through the exercise of such right.

(B) If a Loan Event of Default occurs because of a Lease Event of Default with respect to the failure of Lessee to pay any other amount to perform or observe any covenant, condition, or agreement to be paid, performed, or observed by Lessee under the Lease or under any other Operative Agreement which can be cured by the payment of money alone (other than the covenants and agreements to pay Monthly Rental), Borrower may, but shall not be obligated to at any time prior to the expiration of the Thirty-Day Cure Period cure such Lease Event of Default (and such cure shall be deemed to cure any Loan Event of Default arising therefrom).

(ii) Lender may not exercise any remedy or remedies it is authorized to exercise pursuant to this Loan Agreement prior to the expiration of the Five-Day Cure Period or Thirty-Day Cure Period, as applicable.

(iii) Except as hereinafter provided in this Section 9.4(a), Borrower upon exercising the right to cure any such Lease Event of Default, shall not obtain any lien, charge, or encumbrance of any kind on the Equipment or any part thereof or any part of the Collateral or on account of costs or expenses incurred in connection with the exercise of such right nor shall any claims of Borrower against Lessee or any other party for the repayment of such costs or expenses impair the prior right and security interest of Lender in and to the Collateral. Upon such payment by Borrower of the amount of principal and interest then due and payable on the Notes or performance by Borrower of such other actions necessary to cure such Lease Event of Default, Borrower shall be subrogated to the rights of Lender in respect of such Rent which was overdue at the time of such payment and such interest payable by Lessee on account of its being overdue, and therefore, if no other Lease Event of Default has occurred and is continuing and if all Secured Indebtedness then due has been paid or performed at the time of receipt by Lender of such Rent, Borrower shall be entitled to receive such Rent and such interest upon receipt thereof by Lender and so long as no Loan Event of Default has occurred and is continuing shall be entitled to receive all other amounts owed to it by Lessee in connection with the exercise of Borrower's right to cure and to initiate and prosecute legal action against Lessee for the payment of such amounts and for specific performance under the Lease, provided, however, that (A) in the event the principal and interest on the Notes shall have at any time become due and payable pursuant to Section 9.2(b), such subrogation shall, until all principal of and interest on all Notes and all other Secured Indebtedness shall have been paid or performed in full, be subordinate in full to the rights of Lender in respect of such payment of Monthly Rental and such interest on such overdue Monthly Rental, and (B) Borrower shall not be entitled to seek to recover any such payment (or any payment in lieu thereof) except pursuant to the foregoing subordinated right of subrogation.

(b) Option to Purchase Notes.

(i) Borrower may, at its option, purchase all of the Notes upon written notice (the "*Purchase Notice*") to Lender (which notice shall specify Borrower's election to purchase such Notes on a date no more than thirty (30) Business Days following the giving of such Purchase notice (the "*Purchase Date*")) at a purchase price equal to the sum of (A) the unpaid principal amount of the each Note, together with accrued interest thereon to the date of payment but without any Make-Whole Premium and (B) any other Secured Indebtedness then due and payable to Lender, but solely in the following circumstances: (1) the occurrence of a Lease Event of Default which (I) continues for six (6) months or more after knowledge thereof by a Responsible Officer of Lender without Lender's terminating the Lease and exercising its remedies against Lessee and (II) is not waived by Lender in writing within ten (10) days after receipt of the Purchase Notice, (2) the occurrence of a Lease Event of Default under Section 11(a)(iv) or 11(a)(v) of the Master Lease, if Lessee's bankruptcy trustee has not agreed to perform all obligations of Lessee under the Lease within the 60-day period provided for in Section 1168 of the Bankruptcy Code; (3) Lender accelerates the Notes or exercises any other remedy under this Loan Agreement as a result of a Lease Event of Default. The giving of such Purchase Notice shall obligate Borrower to purchase the Notes on the Purchase Date.

(ii) On the Purchase Date, against payment of the specified purchase price to Lender in immediately available funds, Lender will forthwith sell, assign, transfer and convey to Borrower or its designee as specified in the Purchase Notice, without recourse or warranty of any kind, all of the right, title and interest of Lender in and to this Loan Agreement, the Collateral and the Notes; provided, however, that Lender shall not be required so to sell the Note held by it without indemnity satisfactory to it if it shall have reasonable cause to believe that any such sale violates applicable law. If Borrower shall so request, Lender will comply with all the provisions of Section 5.6 to enable a new Note to be issued to Borrower. Borrower shall pay all charges and expenses required pursuant to Section 5.8 in connection with the issuance of the new Note.

Section 9.5 Remedies Cumulative. Each and every right, power, and remedy herein specifically given to Lender in this Loan Agreement or otherwise existing shall be cumulative and shall be in addition to every other right, power, and remedy herein specifically given or now or hereafter existing at law, in equity, or by statute, and each and every right, power, and remedy whether specifically herein given or otherwise existing may be exercised from time to time and as often and in such order as may be deemed expedient by Lender, and the exercise or the beginning of the exercise of any right, power, or remedy shall not be construed to be a waiver of the right to exercise at the same time or thereafter any other right, power, or remedy. No delay or omission by Lender, in the exercise of any right, power, or remedy, or in the pursuance of any remedy shall impair any such right, power, or remedy or be construed to be a waiver of any Loan Default on the part of Borrower or Lessee or to be an acquiescence therein. No waiver by Lender of any Loan Default or shall be deemed to be a waiver of any other or similar, previous, or subsequent Loan Default.

Section 9.6 Discontinuance of Proceedings. In case Lender proceeds to enforce any right, power, or remedy under this Loan Agreement by foreclosure, entry, or otherwise, and such proceedings are discontinued or abandoned for any reason or are been determined adversely to Lender, then and in every such case Borrower, Lender and Lessee shall be restored to their former positions and rights hereunder with respect to the Collateral, and all rights, remedies, and powers of Lender shall continue as if no such proceedings had been taken.

Section 9.7 Sale of Equipment by Lender Is Binding. Any sale or other conveyance of the Equipment or any portion thereof by Lender made pursuant to the terms of this Loan Agreement or of the Lease shall bind Lessor and Lender and shall be effective to transfer or convey all right, title and interest of Lender and Lessor in and to such Equipment. No purchaser or other grantee shall be required to inquire as to the authorization, necessity, expediency, or regularity of such sale or conveyance or as to the application of any sale or other proceeds with respect thereto by Lender.

Section 9.8 Certain Rights of Borrower. Notwithstanding any provision to the contrary in this Loan Agreement, as between Borrower and Lender, Borrower shall have the right:

(a) to the exclusion of the Lender, so long as no Loan Default shall have occurred and be continuing, to exercise all rights as lessor under the Lease with respect to any determination of Fair Market Value;

(b) for itself but not to the exclusion of Lender, whether or not a Loan Default shall have occurred and be continuing, (i) to exercise the rights as lessor under the Lease and to receive from Lessee all notices, reports, certificates, opinions of counsel, and other documents and all information that Lessee is permitted or required to give or furnish to Borrower as lessor under the Lease pursuant to the Lease and (ii) to exercise the rights of Borrower as lessor under the Lease to inspect the Equipment;

(c) to the exclusion of Lender, whether or not a Loan Default shall have occurred and be continuing, all rights of Borrower to exercise any election or option or make any decision or determination or give or receive any notice, consent, waiver, or approval in respect of, or demand, collect, sue for, or otherwise obtain all amounts due from Lessee or Guarantor on account of, any Excepted Rights in Collateral; and

(d) so long as no Loan Default shall have occurred and be continuing, the right, jointly with the Lender, to exercise all other rights, powers, privileges, and remedies under any Assigned Agreement or consent to or approve any other matter referred to in any Assigned Documents as requiring or being subject to the consent or approval of Borrower.

SECTION 10 COVENANTS OF BORROWER.

Section 10.1 Reports. Borrower shall furnish directly to Lender the following:

(a) Promptly upon receipt thereof, duplicates or copies of all reports, notices, requests, demands, certificates, financial statements and other instruments furnished to Borrower under the Lease.

(b) Promptly after knowledge thereof, notice of the occurrence of any material Loan Default and any Loan Event of Default.

Section 10.2 Borrower Liens. Borrower hereby agrees for the benefit of Lender that at all times and the Collateral shall be free and clear of any Borrower Lien and that Borrower will, at its own cost and expense, promptly take such action as may be necessary duly to discharge any such Lien. Borrower further agrees to indemnify and hold harmless Lender from and against any loss, costs, expenses or charge (including reasonable legal fees and expenses) incurred, in each case, as a result of the imposition or enforcement of any Borrower Lien.

Section 10.3 Consolidation and Merger. Borrower shall not consolidate or merge with or into another corporation unless the successor Borrower is authorized under all

applicable law to perform the predecessor Borrower's obligations under the Operative Agreements to the same extent as the predecessor Borrower.

Section 10.4 Transfer of Borrower's Interest. Borrower shall not, either before the Closing Date or during the term of the Lease, directly or indirectly sell, assign, convey or otherwise transfer all or any part of its right, title and interest in and to the Equipment, the Lease, or this Loan Agreement without the prior written consent of Lender; provided, however, that during the term of the Lease, Borrower may sell, assign, convey or otherwise transfer all or any part of the right, title and interest in and to the Equipment, the Lease or this Loan Agreement to an affiliate of Borrower without the prior written consent of Lender so long as Borrower remains fully liable for its obligations hereunder.

Section 10.5 Brokers. Borrower represents and warrants that it has not dealt with any Person other than Helm Financial Corporation that may be entitled to any compensation as a broker, finder or placement agent in connection with the transactions contemplated by the Operative Agreements, that Borrower will pay Helm Financial Corporation all of its fees, expenses and other charges in connection with this Loan Agreement and that Borrower will indemnify, defend and hold harmless Lender against any claim by any Person for compensation as a broker, finder or placement agent in connection with the transactions contemplated by the Operative Agreements.

Section 10.6 Location of Items; Inspection. Borrower shall not remove any Item out of the continental United States, Canada or Mexico and then only as permitted under the Lease. To the extent that Borrower can grant such right and subject to the terms of the Lease, Lender shall at all times have the right to enter into and upon any premises wherein any Item may be situated for the purpose of locating and inspecting the same, observing its use or otherwise protecting the security interest created therein, and, in connection therewith, Borrower hereby appoints Lender as its agent under Section 7(c) of the Master Lease.

Section 10.7 Restrictions on Assigned Agreements. Borrower shall not (a) take any action or omit to take any required action, the taking or omission of which might result in an alteration or impairment of the Assigned Agreements or this Loan Agreement or any of the rights created by any of the Assigned Agreements or this Loan Agreement, (b) enter into any agreement amending or supplementing any of the Assigned Agreements, (c) accept any payment from Lessee in connection with the transactions contemplated hereby other than Excepted Rights in Collateral, (d) settle or compromise any claim against Lessee in connection with the transactions contemplated hereby or arising under the Assigned Agreements other than with respect to Excepted Rights in Collateral, (e) submit or consent to the submission to arbitration of any dispute, difference, or other matter arising under or in respect of any of the Assigned Agreements other than with respect to Excepted Rights in Collateral, (f) give any consents or waivers under the Assigned Agreements, or (g) exercise the remedies of Borrower under, or terminate or accept a surrender of, the Lease.

Section 10.8 Economic Obsolescence of Item. If Lessee elects to terminate the Lease as to any Item pursuant to Rider No. 2, Borrower shall not and may not elect to retain such Item instead of selling it to the highest cash bidder unless (a) no Loan Default has occurred and is continuing and (b) Borrower has paid to Lender an amount equal to the Termination Value of such Item together with any applicable Make-Whole Premium and all reasonable costs and expenses, including reasonable attorney's fees and expenses, incurred by Lender with respect to such termination and the related proposed sale. Notwithstanding the above or any term in the Lease, Borrower shall not cause or otherwise permit the termination of the Lease unless the Notes have been paid-in-full and all other amounts due and payable hereunder to Lender have been paid in full.

Section 10.9 Guaranty and Indemnity Payments.

(a) Notwithstanding any other provision contained in this Agreement, the Note or any other Operative Agreement, Borrower hereby agrees to pay out of its own funds or otherwise, when due, any of the following any amounts payable to Lender under the Note and this Agreement which otherwise will not be paid to Borrower by Lessee pursuant to the terms of the Lease: (i) any interest amounts accruing under the Notes during any Interim Period in excess of the Interim Rent payable during such period by Lessee and (ii) any principal and interest amounts due under the Note in excess of rental payments paid by Lessee due to (A) the failure of Borrower to provide timely or accurately to the Lessee the written invoice required under Section 4(b) of the Lease or (B) the effect of a change in law on rental payments paid by Lessee pursuant to Section 10(d) of the Lease.

(b) Borrower will indemnify and hold Lender harmless against any losses, claims, damages or liabilities, joint or several, to which Lender may become subject insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon the failure of Borrower to perform any duties as Lessor under the Lease which permits Lessee not to make any required payments under the Lease, including, without limitation, the failure of Borrower to deliver any invoice required to be delivered under the Lease. Borrower will reimburse Lender for any legal or other expenses reasonably incurred by Lender in connection with investigating or defending any such loss, claim, damage, liability or action as such expenses are incurred.

(c) The indemnities and other agreements of Borrower set forth in or made pursuant to this Section will remain in full force and effect and will survive the termination of this Agreement. The indemnities and other agreement of Borrower set forth or made in this Section will inure to the benefit of and be binding upon Borrower and Lender and their respective successors.

Section 10.10 Appointment of Lender as Attorney. Subject to Borrower's rights under Section 9.4, Borrower hereby irrevocably appoints Lender as its attorney in fact so to do, but Lender shall incur no liability to Borrower or any third party for failure so to do, any act that Borrower is obligated by this Loan Agreement to do, and to exercise such rights, powers and remedies as Borrower might exercise with respect to the Collateral.

Section 10.11 Further Assurances. Borrower will promptly and duly execute and deliver to Lender such instruments, documents, and assurances, conveyances, financing statements, and continuation statements with respect to financing statements and take such further action as Lender may from time to time reasonably request in order to obtain the full benefits of the grant of the security interest in and lien upon the Collateral, to carry out more effectively the intent and purpose of this Loan Agreement, to establish and protect the rights and remedies created or intended to be created in favor of Lender and to create for the benefit of Lender a valid first and prior perfected security interest in the Collateral and to protect Borrower's and Lender's intended interests in the Equipment and the other Collateral in the event that, contrary to the parties' intent and belief, the Lease is held to be a security agreement under the Uniform Commercial Code, including but not limited to the prompt recording or filing of counterparts hereof, or of such other documents with respect hereto, in accordance with the laws of such jurisdictions, as Lender may from time to time reasonably request.

SECTION 11 LENDER.

Section 11.1 Acceptance of Duties. Lender agrees to perform its obligations hereunder upon the terms of this Loan Agreement and agrees to receive and disburse all moneys constituting part of the Collateral as set forth herein. Lender shall not be liable under any circumstances, except for its own willful misconduct or gross negligence with respect to its obligations. Lender shall not be liable for any action or inaction of Borrower.

Section 11.2 Absence of Certain Duties. Lender shall have no duty (a) to see to any insurance on the Equipment or to effect or to maintain any such insurance whether or not Lessee shall be in default with respect thereto, (b) to see to the payment or discharge of any tax, assessment, or other governmental charge or any lien or encumbrance of any kind owing with respect to, or assessed or levied against, any part of the Collateral, (c) to confirm or verify any financial statements of Lessee, or (d) to inspect the Equipment at any time or ascertain or inquire as to the performance or observance of any covenants of Lessee under the Assigned Agreements.

Section 11.3 No Representation or Warranties as to Equipment or Documents. LENDER MAKES NO WARRANTY AS TO THE VALUE, MERCHANTABILITY, CONDITION OR FITNESS FOR ANY PARTICULAR PURPOSE OR USE OF THE ITEMS OR AS TO BORROWER'S TITLE THERETO, OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE ITEMS WHATSOEVER, and Lenders make no representation or warranty as to the validity, legality or enforceability of this Loan Agreement, the Notes, or any of the Assigned Agreements or as to the correctness of any statement contained in any thereof, except as specifically set forth herein.

Section 11.4 Limitations of Liability. Lender shall have no obligation or duty to Lessee, to Borrower or to any other Person with respect to the transactions contemplated hereby except those obligations or duties of Lender expressly set forth in this Loan Agreement, and Lender shall not be liable for performance by Borrower of Borrower's

obligations or duties hereunder. Without limitation of the generality of the foregoing, under no circumstances whatsoever shall Lender be liable to Lessee for any action or inaction on the part of Borrower in connection with the transactions contemplated herein, whether or not such action is caused by willful misconduct or gross negligence of Borrower.

SECTION 12 SUPPLEMENTS AND AMENDMENTS.

Section 12.1 Conditions and Limitation. Except as provided in Section 12.2, at any time and from time to time after and during the continuation of a Loan Event of Default or Lease Event of Default, at the written request of Lender, Borrower shall (a) enter into such written amendment of or supplement to any of the Operative Agreements as the other parties other than Borrower thereto may agree to, (b) execute and deliver any consent or approval contemplated by any of the Operative Agreements or (c) execute and deliver any written waiver or modification of the terms of any of the Operative Agreements. Except as provided above, neither Lender nor Borrower shall enter into any amendment or supplement or otherwise amend any Operative Agreement without the prior written consent of the other party. Notwithstanding any other provision of this Agreement, that without the consent of Lender, no amendment of or supplement to any of the Assigned Agreements, or waiver or modification of the terms of any thereof, shall (i) modify any of the provisions of this Section 12.1, (ii) modify the definitions of the terms "Excepted Rights to Payments," "Secured Indebtedness," "Event of Loss," "Event of Taking," "Treasury Rate" "Lease Default," "Loan Default," "Stipulated Loss Value," "Collateral," "Make-Whole Premium," "Borrower Default," "Loan Event of Default," and "Lease Event of Default" contained in the Glossary hereto, (iii) reduce the amount or extend the time of payment of any amount owing or payable under the Notes, reduce the interest payable on the Notes, or alter or modify the provisions of Section 7 with respect to the order of priorities in which distributions thereunder shall be made as between Lender and Borrower, (iv) reduce, modify, or amend any indemnities in favor of Lender, (v) reduce the amount or extend the time of payment of Rental, Stipulated Loss Value or Termination Value set forth in the Lease, (vi) modify, amend, or supplement the Lease or consent to any assignment of the Lease in either case releasing Lessee from its obligations in respect of the payment of the Rental, Stipulated Loss Value or Termination Value or changing the absolute and unconditional character of such obligations including, without limitation, as set forth in Section 4(d) of the Master Lease or (vii) subject to Section 6.5, permit the creation of any lien on the Collateral or any part thereof or deprive Lender of the lien of this Loan Agreement on the Collateral or release any property from the Collateral, in each case other than pursuant to the express provisions hereof and of the Assigned Agreements.

Section 12.2 Supplements Not Requiring Consent or Request. At any time property is to be added to the Collateral, Borrower and Lender, shall execute a supplement to this Loan Agreement for the sole purpose of adding such property to the Collateral.

Section 12.3 Amendments and Waivers. Subject to Section 12.1, no term, covenant, agreement or condition of this Loan Agreement may be terminated, amended or compliance therewith waived (either generally or in a particular instance, retroactively or

prospectively) except by an instrument or instruments in writing executed by the party to be charged.

SECTION 13 MISCELLANEOUS.

Section 13.1 Loan Agreement for Benefit of Certain Parties Only.

Nothing in this Loan Agreement, whether express or implied, shall be construed to give to any Person other than Lender and Borrower any legal or equitable right, remedy, or claim under or in respect of the Note or this Loan Agreement.

Section 13.2 Notices. Unless otherwise expressly specified or permitted by the terms hereof, all communications and notices provided for herein shall be in writing or by a telecommunications device capable of creating a written record and any such notice shall become effective (a) upon personal delivery thereof, including, without limitation, by overnight mail and courier service, (b) in the case of notice by United States mail, certified or registered, postage prepaid, return receipt requested, upon receipt thereof, or (c) in the case of notice by such a telecommunications device, upon confirmation of receipt thereof (if sent during business hours on a Business Day in the place of receipt and otherwise on the next succeeding Business Day), in each case addressed to each party hereto at its address set forth below or, in the case of any such party hereto, at such other address as such party may from time to time designate by written notice to the other parties hereto:

If to Borrower: The First National Bank of Maryland
 25 South Charles Street
 Baltimore, Maryland 21201
 Attention: Credit Administrator
 Fax No.: (401) 244-4142

If to Lender: The Minnesota Mutual Life Insurance Company
 400 North Robert Street
 St. Paul, Minnesota 55101
 Attn.: MIMLIC Asset Management Company
 Confirmation: (612) 298-3826
 Fax No.: (612) 223-5959

Section 13.3 Survival. All warranties, representations, indemnities and covenants made by any party hereto, herein or in any certificate or other instrument delivered by any such party or on the behalf of any such party under this Loan Agreement shall be considered to have been relied upon by each other party hereto and shall survive the consummation of the transactions contemplated hereby on each Closing Date regardless of any investigation made by any such party or on behalf of any such party.

Section 13.4 Successors and Assigns. All covenants and agreements contained herein shall be binding upon, and inure to the benefit of, Lender and Borrower and their respective successors and assignees. Any request, notice, direction, consent waiver, or

other instrument or action by Borrower or Lender shall bind the successors and assignees of such party

Section 13.5 Business Day. Notwithstanding any provision hereof to the contrary, if any date upon which a payment is due hereunder is not a Business Day, then except as described in the next sentence, the amount otherwise payable on such date shall be due and payable on the next succeeding Business Day with the same force and effect as though made on such prior date and with no adjustment for interest.

Section 13.6 Governing Law. This Loan Agreement shall in all respects be governed by, and construed in accordance with, the laws of the State of New York.

Section 13.7 Severability. Any provision of this Loan Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 13.8 Counterparts. This Loan Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument. It shall not be necessary, when making proof of this Loan Agreement, to produce or account for more than one counterpart.

Section 13.9 Headings and Table of Contents. The headings of the sections of this Loan Agreement and the Table of Contents are inserted for purposes of convenience only and shall not be construed to affect the meaning or construction of any of the provisions hereof.

Section 13.10 Integration. This Loan Agreement and the other Operative Agreements constitute the entire agreement among the parties hereto pertaining to the subject matter hereof and supersede all prior understandings, agreements, negotiations and discussions between or among the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Loan Agreement to be executed and delivered, all as of the date first above written.

Borrower: **THE FIRST NATIONAL BANK OF MARYLAND**

By *Mitchell Crook*
Name:
Title:

Lender: **THE MINNESOTA MUTUAL LIFE INSURANCE COMPANY**

By _____
Name:
Title:

STATE OF Maryland)
) SS
COUNTY OF Baltimore)

On this 28th day of December, 1994, before me personally appeared J. Mitchell Gosh, to me personally known, who being by me duly sworn, says that he/she is a Vice President of United National Bank of Maryland, a national banking association corporation, that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and he/she acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Cathy M. Riley
Notary Public

My Commission expires: July 1, 1998

STATE OF)
) SS
COUNTY OF)

On this ____ day of _____, before me personally appeared _____, to me personally known, who being by me duly sworn, says that he/she is a _____ of _____, a _____ corporation, that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and he/she acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

(SEAL)

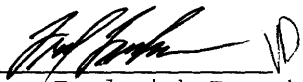
My Commission expires: _____

IN WITNESS WHEREOF, the parties hereto have caused this Loan Agreement to be executed and delivered, all as of the date first above written.

Borrower: **THE FIRST NATIONAL BANK OF MARYLAND**

By _____
Name:
Title:

Lender: **THE MINNESOTA MUTUAL LIFE INSURANCE COMPANY**

By  _____
Name: Frederick Feuerherm
Title: Second Vice President

STATE OF)
) SS
COUNTY OF)

On this ____ day of _____, before me personally appeared _____, to me personally known, who being by me duly sworn, says that he/she is a _____ of _____, a _____ corporation, that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and he/she acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

(SEAL)

My Commission expires: _____

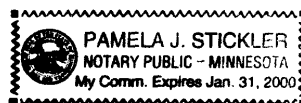
STATE OF Minnesota)
) SS
COUNTY OF Ramsey)

On this 28th day of December, 1994, before me personally appeared Frederick Feuerharm, to me personally known, who being by me duly sworn, says that he/she is a Second Vice President of The Minnesota Mutual Life Insurance Company, a Minnesota corporation, that said instrument was signed on behalf of said corporation by authority of its Board of Trustees; and he/she acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.


Notary Public

(SEAL)

My Commission expires: _____



**CERTIFICATE AND ACKNOWLEDGMENT
OF MOBIL OIL CORPORATION**

EXHIBIT A

The undersigned, _____, hereby certifies that (s)he is the/a _____ of Mobil Oil Corporation ("*Lessee*"), that (s)he is authorized to execute and deliver this Certificate on behalf of Lessee and that Lessee represents, warrants, acknowledges and covenants to The Minnesota Mutual Life Insurance Company ("*Lender*") that, as of the date hereof:

- (a) Lessee and The First National Bank of Maryland ("*Borrower*") have entered into that certain Master Lease Agreement effective as of April 28, 1994 (the "*Master Lease*"), and Equipment Schedule Number 3 thereto dated October 31, 1994, together with Riders No. 1, No. 2 and No. 3 thereto ("*Equipment Schedule Number 3*"; and the Side Letter thereto dated as of December 30, 1994; collectively with the Master Lease and the Equipment Schedule Number 3, the "*Lease*").
- (b) All representations and warranties of Lessee contained in the Lease are true and correct in all respects.
- (c) The chief executive office and principal place of business of Lessee and the office where Lessee keeps its records concerning the Equipment and all contracts relating thereto is located in Reston, Virginia.
- (d) Lessee has delivered to Borrower a true and complete copy of the specifications for the Equipment.
- (e) The description of the Equipment set forth on Equipment Schedule Number 3 is a true and accurate description of the Equipment.
- (f) The aggregate amount of the seller's invoice(s) for the Equipment is equal to the aggregate Actual Cost for the Equipment purchased on the Closing Date.
- (g) Lessee acknowledges that Borrower and Lender are entering into the Loan and Security Agreement dated as of December 15, 1994 (this "*Loan Agreement*"), pursuant to which Borrower desires to borrow from Lender a portion of the Actual Cost for the Equipment and to secure the repayment of such borrowing by granting a security interest to Lender in, among other things, the Equipment and the Lease.
- (h) Lessee agrees to perform all of its obligations under the Lease for the benefit of Lender (including, without limitation, its obligations under Section 12 thereof) and shall pay all sums due or to become due to Borrower under the Lease directly to Lender, without offset of any kind, at the following address:

The Federal Reserve Bank of Minneapolis
Account of The First Bank National Association,
Minneapolis, Minnesota
ABA #091000022
BNF the Minnesota Mutual Life Insurance Company
Account # 1801-10-00600

(i) This Certificate is being delivered to Lender to induce Lender to enter into and perform the Loan Agreement.

(j) Lessee agrees not to amend, modify, or supplement or terminate early the Lease, without the prior written consent of Lender, except Lessee may terminate the Lease pursuant to the express terms of the Lease.

(k) Until the termination of the Lease, Lessee shall furnish to Lender the following:

(i) As soon as available and in no event later than forty-five (45) days after the last day of each fiscal quarter of Mobil Corporation ("Mobil"), a copy of the financial statement provided to the shareholders of Mobil;

(ii) As soon as practicable after request by Lender and in no event no later than 45 days after such request, a copy of Mobil's Form 10-Q filed with Securities and Exchange Commission for the fiscal quarter requested by Lender; provided, however, that Mobil and Lessee shall not be required to deliver a copy of Mobil's 10-Q more than one time during any calendar year; and

(iii) As soon as available and in no event later than 120 days after the close of each fiscal year of Mobil, (A) copies of the audited consolidated financial statements of Mobil for such fiscal year or Mobil's 10-K for such fiscal year, and (B) copies of the unqualified opinions of such accountants in connection with all such financial statements.

In witness, the undersigned has executed and delivered this Certificate as of December 30, 1994.

Name:
Title:

EXHIBIT B
Lessee Counsel Opinion

The opinion of counsel to Lessee shall be addressed to Lender, state that it is being delivered pursuant to the terms and conditions of this Loan Agreement and be to the effect that:

(a) Lessee is a corporation duly organized, validly existing, and in good standing under the laws of the State of New York and is duly licensed or qualified and in good standing as a foreign corporation in each jurisdiction in which the failure to be so licensed or qualified would have a material adverse effect on the business, assets, operations or conditions (financial or otherwise) of Lessee (a "*Material Adverse Effect*"), with full power and authority to carry on its present business and operations and to own or lease its properties and to conduct its business as now conducted and as proposed to be conducted.

(b) The Lease has been duly authorized by all necessary corporate action on the part of Lessee, has been duly executed and delivered by Lessee and constitutes the legal, valid and binding obligation of Lessee, enforceable against Lessee in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect affecting creditors' rights generally, and by general principles of equity, regardless of whether such enforceability is considered in a proceeding at law or in equity.

(c) The execution, delivery and performance by Lessee of the Lease and compliance by Lessee with all of the provisions thereof do not and will not contravene any law or regulation, or any order of any court or governmental authority or agency applicable to or binding on Lessee or any of its properties, or contravene the provisions of, or constitute a default by Lessee under, or result in the creation or imposition of any lien upon the property of Lessee under, its articles of incorporation or by-laws or any indenture, mortgage, contract or other agreement or instrument to which Lessee is a party or by which Lessee or any of its property is bound or affected.

(d) Neither the nature of Lessee nor its businesses or properties, nor any relationship between Lessee and any other Person, nor any circumstances in connection with the execution, delivery and performance of the Lease, is such as to require a consent, approval or authorization of, or filing, registration or qualification with, any governmental authority, any shareholders of Lessee or any other Person on the part of Lessee in connection with the execution, delivery and performance by Lessee of the Lease.

(e) No representation, warranty or other statement made by Lessee in the Lease, when taken as a whole as of the date made, contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained in such documents, written statements or certificates not misleading.

(f) Lessee is not in violation in any respect of any term of any charter instrument, by-law or agreement or instrument to which it is a party or by which it may be bound as to have a Material Adverse Effect.

(g) Lessee is in compliance with all laws, ordinances, governmental rules and regulations to which it is subject, the failure to comply with which would have a Material Adverse Effect and has obtained all licenses, permits, franchises and other governmental

authorizations required for the conduct of its business, including, without limitation, the leasing of the Equipment, the failure to obtain which would have a Material Adverse Effect.

EXHIBIT C
Guarantor Counsel Opinion

The opinion of counsel to Guarantor shall be addressed to Lender, state that it is being delivered pursuant to the terms and conditions of this Loan Agreement and be to the effect that:

(a) Guarantor is a corporation duly organized, validly existing, and in good standing under the laws of the State of Delaware and is duly licensed or qualified and in good standing as a foreign corporation in each jurisdiction in which the failure to be so licensed or qualified would have a material adverse effect on the business, assets, operations or conditions (financial or otherwise) of Guarantor (a "*Material Adverse Effect*"), with full power and authority to carry on its present business and operations and to own or lease its properties and to conduct its business as now conducted and as proposed to be conducted.

(b) The Guarantee has been duly authorized by all necessary corporate action on the part of Guarantor, has been duly executed and delivered by Guarantor and constitutes the legal, valid and binding obligation of Guarantor, enforceable against Guarantor in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect affecting creditors' rights generally, and by general principles of equity, regardless of whether such enforceability is considered in a proceeding at law or in equity.

(c) The execution, delivery and performance by Guarantor of the Guarantee and compliance by Guarantor with all of the provisions thereof do not and will not contravene any law or regulation, or any order of any court or governmental authority or agency applicable to or binding on Guarantor or any of its properties, or contravene the provisions of, or constitute a default by Guarantor under, or result in the creation or imposition of any lien upon the property of Guarantor under, its articles of incorporation or by-laws or any indenture, mortgage, contract or other agreement or instrument to which Guarantor is a party or by which Guarantor or any of its property is bound or affected.

(d) Neither the nature of Guarantor nor its businesses or properties, nor any relationship between Guarantor and any other Person, nor any circumstances in connection with the execution, delivery and performance of the Guarantee, is such as to require a consent, approval or authorization of, or filing, registration or qualification with, any governmental authority, any shareholders of Guarantor or any other Person on the part of Guarantor in connection with the execution, delivery and performance by Guarantor of the Guarantee.

(e) No representation, warranty or other statement made by Guarantor in the Guarantee, when taken as a whole as of the date made, contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained in such documents, written statements or certificates not misleading.

(f) Guarantor is not in violation in any respect of any term of any charter instrument, by-law or agreement or instrument to which it is a party or by which it may be bound as to have a Material Adverse Effect.

(g) Guarantor is in compliance with all laws, ordinances, governmental rules and regulations to which it is subject, the failure to comply with which would have a Material

Adverse Effect and has obtained all licenses, permits, franchises and other governmental authorizations required for the conduct of its business, including, without limitation, the guaranty of Lessee's obligations under the Lease, the failure to obtain which would have a Material Adverse Effect.

EXHIBIT D-1
Borrower Counsel Opinion

The legal opinion of counsel to Borrower shall be addressed to Lender, state that it is being delivered pursuant to the terms and conditions of this Loan Agreement and be to the effect that:

1. Borrower is a national banking association duly organized, validly existing and in good standing under the laws of the United States of America, is duly qualified and in good standing in each jurisdiction where the failure to so qualify would materially and adversely affect its ability to perform its obligations under this Loan Agreement, the Notes and the Lease (the "*Borrower Documents*") and has the corporate power and authority to carry on its business as now conducted.
2. Borrower has the corporate power and authority to enter into, execute and deliver the Borrower Documents and to perform each and all of the matters and things provided for it to perform in the Borrower Documents, and such execution delivery and performance do not and will not contravene any law or regulation or any order of any court or governmental authority or agency applicable to or binding on Borrower or its properties, or contravene the provisions of, or constitute a default under, or result in the creation or imposition of any Lien on the Equipment or the Lease under, its organization document or by-laws or, to its knowledge, any material indenture, mortgage, contract or other agreement or instrument to which Borrower is a party or by which it or any of its property or the Equipment may be bound or affected (other than the leasehold interest of Lessee under the Lease and the security interest of Lender under this Loan Agreement).
3. The Borrower Documents have been duly authorized by all necessary corporate action on the part of Borrower, do not require any approval not already obtained of stockholders of Borrower or, to our best knowledge after due inquiry, any approval or consent not already obtained of any trustee or holders of indebtedness or obligations of Borrower or any other Person.
4. The Borrower Documents have been duly executed and delivered by Borrower and constitute the legal, valid and binding obligations of Borrower, enforceable against Borrower in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally, and by general principles of equity, regardless of whether such enforceability is considered in a proceeding at law or in equity.
5. No authorization or approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for the due execution, delivery or performance by Borrower of the Borrower Documents.
6. To our knowledge after due inquiry, there are no proceedings pending or threatened against or affecting Borrower, in or before any court or before any governmental authority or arbitration board or tribunal which, if adversely determined

would be reasonably likely to impair the ability of Borrower to perform its obligations under the Borrower Documents.

7. The Borrower has acquired from the Seller such title to the Equipment as the Seller has conveyed to the Borrower, subject to the rights of the Borrower and the Lessee under the Lease.

8. Upon the filing of the UCC financing statements described in Schedule A hereto in the offices described in Schedule A hereto, no other filing, depositing or recording under the UCC will be necessary to protect the rights of the Lender in the Collateral (other than Collateral consisting of Equipment) against the Lessee and creditors of and purchasers from the Lessee and to perfect the lien and security interest provided by the Loan Agreement with respect to such Collateral as against creditors of and purchasers from the Borrower and the Lessee, except that (a) perfection of the security interest created by the Loan Agreement in that portion of the Collateral that constitutes "proceeds" within the meaning of the UCC will be limited to the extent provided in Section 9-306 of the UCC, (b) the UCC requires the filing of a continuation statement within six months prior to the expiration of each period of five years from the effectiveness of each financing statement listed in Schedule A hereto, (c) a change in the name, identity or corporate structure of, or in the location of the principal place of business or chief executive office of, any Person named as the "debtor" in any financing statement may render any such financing statement ineffective and require the filing of new financing statements, and (d) a security interest in any of the Equipment or the Collateral that is disposed of with the consent of the Lender or otherwise in accordance with the Operative Agreements may cease to be perfected as a result of such disposition.

10. It is not necessary in connection with the initial offer and sale of the Notes acquired on the date hereof as contemplated by the Loan Agreement to register such Notes under the Securities Act of 1933, as amended.

EXHIBIT D-2
ICC Counsel Opinion

The legal opinion of ICC counsel to Borrower shall be addressed to Lender, state that it is being delivered pursuant to the terms and conditions of this Loan Agreement and be to the effect that:

1. The Memorandum of Lease, the Loan Agreement, and Supplement No. 1 to the Loan Agreement were duly filed and recorded with the Interstate Commerce Commission pursuant to, and in compliance with, the provisions of 49 U.S.C. Section 11303(a) and the rules and regulations promulgated thereunder in 49 C.F.R. Section 1177 (the "Recordation Provisions") on December 30, 1994 at _____ a.m. under Recordation Numbers _____, _____ and _____, respectively.
2. Other than the Memorandum of Lease, the Loan Agreement and Supplement No. 1 to the Loan Agreement, no document evidencing a lien and encumbrance on, or security interest in, or constituting notice to any person with respect, to the Equipment, or any units thereof, appears in the Recordation Files.
3. Under the provisions of 49 U.S.C. Section 11303(a), the filing and recordation of the Memorandum of Lease, the Loan Agreement and Supplement No. 1 to the Loan Agreement, constitute notice to, and are enforceable against, all persons; and no other filing, depositing, registering or recordation under any law of the United States, a State (or its political subdivisions) or territory or possession of the United States, is necessary to protect the interests of the parties to the foregoing documents in the Equipment, and no re-recording, re-filing or re-registering of the Memorandum of Lease, Loan Agreement and Supplement No. 1 to the Loan Agreement is necessary to continue such notice and enforceability under present law and regulations.

EXHIBIT E
Special Counsel Opinion

The opinion of Special Counsel to Lender shall be addressed to Lender, state that it is being delivered pursuant to the terms and conditions of this Loan Agreement and be to the effect that:

EXHIBIT F
Certificate of Broker

Helm Financial Corporation represents and warrants to Lender that, as of the Closing Date, it has not has offered any of the Notes or any similar security for sale to, or solicited offers to buy any thereof from, any Person other than Lender and not more than ten (10) other institutional investors, as described in the letter of Helm Financial Corporation, dated the Closing Date.

**EXHIBIT G
TO LOAN AGREEMENT**

LOAN AND SECURITY AGREEMENT

SUPPLEMENT NO. _____

LOAN AND SECURITY AGREEMENT SUPPLEMENT NO. ____ (this
"Loan Supplement") dated _____, 19__, between The First National Bank
of Maryland ("Borrower") and The Minnesota Mutual Life Insurance Company ("Lender").

WITNESSETH:

WHEREAS, the Loan and Security Agreement dated as of December 15, 1994 (herein called the "Loan Agreement") between Borrower and Lender, provides for the execution and delivery of a Loan Supplement thereto substantially in the form hereof to particularly describe the Equipment (such term and other defined terms in the Loan Agreement being herein used with the same meanings) and specifically grant a security interest in such Equipment;

NOW, THEREFORE, Borrower in consideration of the premises and other good and valuable consideration, receipt whereof is hereby acknowledged, and intending to be legally bound, and in order to secure the equal and pro rata payment of both the principal of, and interest and Make-Whole Premium, if any, upon the Notes at any time outstanding under the Loan Agreement according to their tenor and effect, and to secure the payment and performance of all other Secured Indebtedness and the performance and observance of all the covenants and conditions contained in the Notes and the Loan Agreement, does hereby convey, warrant, mortgage, assign, pledge and grant unto Lender, its successors and permitted assignees, forever, a security interest in all right, title and interests of Borrower in the Items of Equipment described in Schedule 1 attached hereto, whether tangible or intangible, wherever located or situated, whether now existing, owned or held or hereafter acquired or arising, excluding the Excepted Rights in Collateral, leased or to be leased under the Lease, together with (a) all Parts whether now owned or hereafter acquired, which become the property of Borrower, (b) all substitutions, renewals or replacements of and additions, improvements accessions and accumulations to any and all of such Equipment which become the property of Borrower, together with all the rents, issues, income and profits therefrom, and (c) any and all payments or proceeds payable to Borrower with respect to any Item of Equipment as the result of the sale, lease or other disposition thereof

TO HAVE AND TO HOLD the aforesaid property unto Lender, its successors and assigns forever, upon the terms and conditions set forth in the Loan Agreement for the benefit, security and protection of Lender and its assignees and designees.

This Loan Supplement shall be construed in connection with and as part of the Loan Agreement and all terms, conditions and covenants contained in the Loan Agreement, except as herein modified, shall be and remain in full force and effect.

Any and all notices, requests, certificates and other instruments executed and delivered after the execution and delivery of this Loan Supplement may refer to the "Loan and Security Agreement dated as of December 15, 1994" or the "Loan Agreement" without

making specific reference to this Loan Supplement, but nevertheless all such references shall be deemed to include this Loan Supplement unless the context shall otherwise require.

This Loan Supplement may be executed and delivered in any number of counterparts, each of such counterparts constituting an original but all together only one Loan Supplement.

This Loan Supplement shall be construed in accordance with and governed by the laws of the State of New York.

IN WITNESS WHEREOF, Borrower and Lender have executed this Loan Supplement as of the day and year first above written.

THE FIRST NATIONAL BANK OF MARYLAND

By: _____
Its

**THE MINNESOTA MUTUAL LIFE INSURANCE
COMPANY**

By _____
Its

Schedule 1 to Loan
Supplement No. _____

DESCRIPTION OF EQUIPMENT

STATE OF)
COUNTY OF) SS
)

On this ____ day of _____, before me personally appeared _____, to me personally known, who being by me duly sworn, says that he/she is a _____ of _____, a _____ corporation, that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and he/she acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

(SEAL)

My Commission expires: _____

STATE OF)
COUNTY OF) SS
)

On this ____ day of _____, before me personally appeared _____, to me personally known, who being by me duly sworn, says that he/she is a _____ of _____, a _____ corporation, that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and he/she acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

(SEAL)

My Commission expires: _____

GLOSSARY

Section 1. Definitions. Each of the following terms have the following meanings, except as otherwise expressly provided in Loan Agreement.

"Actual Total Cost" of Equipment being delivered on any Closing Date means the cost of such Equipment as set forth in the related Certificate of Acceptance.

"Assigned Agreements" has the meaning specified in Section 6.1(a)(iii) of the Loan Agreement.

"Bankruptcy Code" means the United States Bankruptcy Code, Title 11, United States Code, as amended from time to time, and any successor provision or provisions.

"Bill of Sale" has the meaning specified in Section 4.5 of the Loan Agreement.

"Borrower" means The First National Bank of Maryland, a national banking association corporation.

"Borrower Documents" shall have the meaning set forth in Section 3.1 of the Loan Agreement.

"Borrower Event of Default" has the meaning specified in Section 9.1(a) of the Loan Agreement.

"Borrower Liens" means any Lien affecting, on or in respect, of the Equipment or the Lease arising as a result of (a) claims against or affecting Borrower not related to the transactions contemplated by the Lease or the Loan Agreement, (b) acts or omissions of Borrower (i) not related to the transactions contemplated by the Lease or (ii) not permitted under the Lease or (iii) in breach of any covenant or agreement of Borrower set forth in any of the Operative Agreements, (c) Taxes imposed against Borrower which are not indemnified against by Lessee pursuant to the Lease, or (d) claims against Borrower arising out of the transfer (whether voluntary or involuntary) by Borrower of any interest in the Items or the Operative Agreements.

"Business Day" means any day other than a Saturday, Sunday or a day on which banks are authorized or permitted to be closed in the states of New York, Virginia, Maryland or Minnesota.

"Certificate of Acceptance" means a Certificate of Acceptance dated a Closing Date, substantially in the form of Exhibit B to the Master Lease, between Borrower and Lessee, covering the Items delivered on such Closing Date.

"Closing Date" means each of the two dates on which Equipment is purchased and leased pursuant to Section 2.3 of the Loan Agreement. The *"1994 Closing Date"* means

the Closing Date occurring in 1994, and the "1995 Closing Date" means the Closing Date occurring in 1995.

"Code" means the Internal Revenue Code of 1986, as amended from time to time.

"Collateral" has the meaning specified in Section 6.1 of the Loan Agreement.

"Commencement Date" has the meaning specified in Section 2(d) of the Master Lease.

"Commitment" of Lender means the principal amount of the Notes of the applicable series Lender has agreed to purchase pursuant to Section 2.1 of the Loan Agreement on the applicable Closing Date, which principal amount shall in no events exceed in the aggregate \$11,704,000.

"Commitment Termination Date" for 1994 Equipment means December 30, 1994, and for 1995 Equipment means June 30, 1995.

"Equipment" means collectively (a) approximately 113 railcars manufactured by AFC Industries, Inc., and (b) approximately 80 railcars manufactured by Trinity Industries, Inc., in each case as described in the Acceptance Certificates and the Loan Supplements, together with any and all accessions, additions, improvements and replacements from time to time incorporated or installed in any such railcar that are the property of Borrower pursuant to the terms of the Lease and, unless the context otherwise specifies, all records and documents that are the property of Borrower pursuant to the terms of the Lease or otherwise relating to such railcars. "1994 Equipment" means the Equipment delivered and accepted on the 1994 Closing Date, and "1995 Equipment" means the Equipment delivered and accepted on the 1995 Closing Date.

"Equipment Cost" means, for each Item, the purchase price therefor paid by Borrower to the Seller of such Item pursuant to Section 2.3 of the Loan Agreement as set forth in the Certificate of Acceptance for such Item.

"Equipment Schedules" means (a) Equipment Schedule Number 3 to the Master Lease dated October 31, 1994, together with Riders No. 1, No. 2 and No. 3 thereto, between Borrower and Lessee to the extent that it applies to the 1994 Equipment and (b) the Equipment Schedule to the Master Lease to be entered into between Borrower and Lessee with respect to the 1995 Equipment.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, or any successor law.

"Event of Loss" means any event described in Section 9(c) of the Master Lease.

"Event of Taking" has the meaning specified in Section 11 of Rider No. 1.

"Excepted Rights in Collateral" means the following described properties, rights, interests and privileges:

(a) all indemnity payments under Section 15(g) of the Master Lease which by the terms thereof are payable to Borrower or its successors, assigns, directors, officers, employees, servants or agents;

(b) any insurance proceeds paid or payable under general public liability policies maintained by the Lessee pursuant to Section 9(a) of the Master Lease which are payable directly to or for the benefit of Borrower or its successors, assigns, directors, officers, employees, servants or agents, and all rights and privileges under such policies in respect of such proceeds;

(c) Transaction Costs (or other amounts or expenses) paid or payable to, or for the benefit of, Borrower pursuant to Section 2.5 of the Loan Agreement;

(d) All right, title and interest of Borrower in or relating to any Item and any other property (tangible or intangible), rights, titles or interests to the extent any of the foregoing has been released from the Lien of the Loan Agreement pursuant to the terms thereof;

(e) upon payment in full of the Secured Indebtedness or upon release of the Lien of the Loan Agreement pursuant to the terms thereof with respect to any Item, all remaining amounts that are or become payable by Lessee in respect of such Item;

(f) all rights of Borrower to receive payments under the Guaranty to the extent, and only to the extent, such payments have been made by the Guarantor under the Guaranty solely for amounts described in paragraphs (a) through (e) above;

(g) all rights of Borrower under the Lease to demand, collect, sue for or otherwise receive and enforce payment of the foregoing amounts and to seek legal or equitable remedies in respect thereof, including requiring Lessee to maintain the insurance coverage referred to in paragraph (b) above, provided that the rights referred to in this paragraph (g) shall not be deemed to include the exercise of any remedies other than to sue for damages;

(h) the rights of Borrower to the proceeds of the foregoing.

"Five-Day Cure Period" has the meaning specified in Section 9.4(a)(i) of the Loan Agreement.

"GAAP" means generally accepted accounting principles and practices consistently applied in the United States of America as in effect from time to time.

"Group" means either the 1994 Equipment or the 1995 Equipment.

"Guarantor" means Mobil Corporation, a Delaware corporation.

"Guaranty" means that certain Guaranty dated December 29, 1994 by the Guarantor in favor of Borrower.

"ICC" means the Interstate Commerce Commission or any successor thereto.

"Interim Rent" has the meaning specified in Section 2(f) of the Master Lease.

"Initial Term" has the meaning specified in Section 3(b) of the Master Lease.

"Item" means an individual railcar constituting part of the Equipment.

"Late Rate" means interest at an annual rate equal to the Note Rate plus 1%.

"Lease" means collectively the Equipment Schedules, the Master Lease as it relates to the Equipment Schedules and a Side Letter dated as of December 30, 1994 among Borrower, Lessee and Guarantor.

"Lease Default" means a Lease Event of Default or an event which with notice or lapse of time or both would become a Lease Event of Default.

"Lease Event of Default" means an "Event of Default" as defined in Section 11(a) of the Master Lease.

"Lender" means The Minnesota Mutual Life Insurance Company, a Minnesota corporation.

"Lender's Percentage of Equipment Cost" means 74.554678% for the 1994 Equipment and 76.773931% for the 1995 Equipment.

"Lessee" means Mobil Oil Corporation, a New York corporation.

"Lien" means any mortgage, pledge, security interest, lien, encumbrance, disposition of title or other charge of any kind on property.

"Loan Agreement" means the Loan and Security Agreement dated as of December 15, 1994 between Borrower and Lender.

"Loan Default" means a Loan Event of Default or an event which with notice or lapse of time or both would become a Loan Event of Default.

"Loan Event of Default" means a Borrower Default or a Lease Event of Default.

"Loan Supplement" means a Loan Supplement dated a Closing Date, substantially in the form of Exhibit G to the Loan Agreement, between Borrower and Lender, covering the Items delivered on such Closing Date.

"Make-Whole Premium" shall mean, with respect to any Note, an amount equal to the excess, if any, of the present value of the payments of principal and interest which would have been due under such Note from the date of redemption or prepayment thereof to the final maturity of such Note had such redemption or prepayment not occurred, discounted at a rate equal to the Treasury Yield plus 0.5% over the principal amount of such Note, so prepaid; provided, however, that if, at the time of redemption or prepayment, the Treasury Yield shall be equal or greater than the rate applicable to the Note, no premium shall be due.

"Master Lease" means that certain Master Lease Agreement effective as of April 28, 1994, between Borrower and Lessee.

"Monthly Rental" has the meaning specified in Section 2(g) of the Master Lease.

"Note" shall each "Note" issued under and pursuant to the Loan Agreement. *"1994 Note"* means each Note issued with respect to 1994 Equipment, and *"1995 Note"* means each Note issued with respect to 1995 Equipment.

"Note Rate" means 8.34% per annum.

"Officer's Certificate" means a certificate signed (a) in the case of a corporation, by the President, any Vice President, the Treasurer, an Assistant Treasurer, the Secretary or an Assistant Secretary of such corporation, (b) in the case of a partnership, by the Chairman of the Board, the President or any Vice President, the Treasurer or an Assistant Treasurer of a corporate general partner, and (c) in the case of a commercial bank or trust company, the Chairman or Vice Chairman of the Executive Committee or the Treasurer, any Trust Officer, any Vice President, any Executive or Senior or Second or Assistant Vice President, or any other officer or assistant officer customarily performing the functions similar to those performed by the persons who at the time shall be such officers, or to whom any corporate trust matter is referred because of his knowledge of and familiarity with the particular subject.

"Operative Agreements" means the Loan Agreement, each Loan Supplement, the Notes outstanding at the time of reference, the Lease, each Certificate of Acceptance, the Guaranty, each Purchase Order, each Purchase Order Assignment and, without duplication, the Assigned Agreements.

"Overall Transaction" means all of the transactions and activities referred to in or contemplated by the Operative Agreements.

"Parts" means all appliances, parts, instruments, appurtenances, accessories, furnishings and other equipment of whatever nature which may from time to time be incorporated or installed in or attached to the Equipment, provided that such appliances, parts, instruments, appurtenances, accessories and furnishings shall remain a "Part" until a replacement (if required) therefor has been installed in or attached to the Equipment.

"Permitted Investments" means (a) direct obligations of the United States of America and agencies thereof for which the full faith and credit of the United States is pledged, (b) obligations fully guaranteed by the United States of America, (c) certificates of deposit issued by, or bankers' acceptances of, or time deposits with, any bank, trust company or national banking association incorporated or doing business under the laws of the United States of America or one of the States thereof having combined capital and surplus and retained earnings of at least \$500,000,000 (including Lender and Borrower if such conditions are met), (d) commercial paper of companies, banks, trust companies or national banking associations incorporated or doing business under the laws of the United States of America or one of the States thereof and in each case having a rating assigned to such commercial paper by Standard & Poor's Corporation or Moody's Investor's Service, Inc. (or, if neither such organization shall rate such commercial paper at any time, by any nationally recognized rating organization in the United States of America) equal to the highest rating assigned by such organization and (e) repurchase agreements with any financial institution having a combined capital and surplus of at least \$500,000,000 fully collateralized by obligations of the type described in clauses (a) through (d) above, provided that if all of the above investments are unavailable, the entire amount to be invested may be used to purchase Federal Funds from an entity described in (c) above, and provided further that no investment shall be eligible as a "Permitted Investment" unless the final maturity or date of return of such investment is 180 days or less from the date of purchase thereof.

"Person" means an individual, partnership, corporation, trust, association or unincorporated organization and a government or agency or political subdivision thereof.

"Purchase Date" has the meaning specified in Section 9.4(b)(i) of the Loan Agreement.

"Purchase Notice" has the meaning specified in Section 9.4(b)(i) of the Loan Agreement.

"Purchase Order" for an Item means a purchase order from Lessee to the related Seller with respect to such Item.

"Purchase Order Assignment" for a Purchase Order means a Railcar Purchase Order Novation and Assignment among Borrower, Lessee and the related Seller with respect to such Purchase Order.

"Rent Payment Date" means the first day of each calendar month.

"Rental" means all Monthly Rental, Interim Rent and other sums payable by Lessee under the Lease.

"Responsible Officer" means, with respect to the subject matter of any covenant, agreement or obligation of any party contained in any Operative Agreement, the President, or any Vice President, Assistant Vice President, Treasurer, Assistant Treasurer or other officer or managerial employee, if such officer or employee in the normal performance of his or her operational responsibility would have knowledge of such matters and the requirements with respect thereto.

"Secured Indebtedness" means and includes all loans, advances, debts, covenants, agreements, liabilities and other obligations owed by Borrower and Lessee to Lender pursuant to the Loan Agreement, the Notes, the Lease or any other Operative Document, now existing or hereafter arising (whether or not evidenced by any note or instrument and whether or not for the payment of money), direct or indirect, absolute or contingent, due or to become due, voluntary or involuntary, whether or not jointly owed with others, liquidated or unliquidated, and whether or not from time to time decreased or extinguished and later increased, created or incurred, including, without limitation, (a) payment to Lender of all principal of, premium, if any, and interest on the Notes and any modifications, extensions or renewals of such Notes (including, without limitation, (i) modifications of the required principal, interest and payment dates, deferring or accelerating such payment dates in part and/or (ii) modifications, extensions and renewals at a different rate of interest, whether or not any such modification, extension or renewal is evidenced by a new or additional promissory note or notes), (b) payments of any indemnity under Section 10.9 of the Loan Agreement which by the terms thereof are payable to Lender or its successor, assigns, assigns, director, officers, employees, servants or agents and (c) all interest, fees, charges or expenses (including attorney's and accountant's fees) chargeable to or payable by Borrower or Lessee pursuant to the terms of the Loan Agreement, the Note, the Lease or any other Operative Document.

"Seller" means, as appropriate, (a) ACF Industries, Inc., for approximately 113 Items and (b) Trinity Industries, Inc. for approximately 80 Items.

"Series" or *"Series of Notes"* means either the 1994 Notes or the 1995 Notes, as the case may be.

"Stipulated Loss Value" means, with respect to any Item as of any Rent Payment Date, an amount equal to the product of (a) the number opposite such Rent Payment Date on the Schedule of Stipulated Loss Values attached to the applicable Equipment Schedule (stated as a percentage) multiplied by (b) the Equipment Cost of such Item.

"Subsidiary" of any Person means any corporation, association, or other business entity of which more than 50% (by number of votes) of the voting stock at the time outstanding shall at the time be owned, directly or indirectly, by such Person or by any other

corporation, association or trust which is itself a Subsidiary within the meaning of this definition, or collectively by such Person and any one or more such Subsidiaries.

"Termination Value" means, with respect to any Item as of any Rent Payment Date, an amount equal to the product of (a) the number opposite such Rent Payment Date on the Schedule of Termination Values attached to the related Equipment Schedule (stated as a percentage) multiplied by (b) the Equipment Cost of such Item.

"Thirty-Day Cure Period" has the meaning specified in Section 9.4(a)(i) of the Loan Agreement.

"Transaction Costs" has the meaning specified in Section 2.4(a) of the Loan Agreement.

"Treasury Yield" shall mean the yield to maturity, as reported in the Wall Street Journal as of the Business Day next preceding the redemption date or prepayment date of any Note, for U.S. Treasury obligations having a maturity approximately the remaining average life of the Notes to be redeemed or prepaid.

Section 2. Terms Generally.

(a) Whenever the context may require, any pronoun includes the correlative masculine, feminine and neuter forms.

(b) The words "include", "includes" and "including" shall not be construed to be limiting or exclusive and shall be deemed to be followed by the phrase "without limitation".

(c) The terms "hereby", "hereof", "hereto", "herein", "hereunder" and any similar terms refer to the agreement in which they are found as a whole and not to any particular provision of such agreement.

(d) References to any document, instrument or agreement (i) shall include all exhibits, schedules and other attachments thereto, (ii) shall include all documents, instruments or agreements issued or executed in replacement thereof, and (iii) means such document, instrument or agreement, or replacement or predecessor thereto, as amended, modified and supplemented from time to time and in effect at any given time.

(e) Unless otherwise stated, any reference to any Person shall include its permitted successors and assigns and, in the case of any governmental entity, any Person succeeding to its functions and capacities.

(f) Each term that is defined in the Lease and not otherwise defined herein has the respective meaning given that term in the Lease.

(g) Each term that is defined in the Uniform Commercial Code in the applicable jurisdiction (and not otherwise defined herein) has the respective meaning given that term in the Uniform Commercial Code as in effect in the applicable jurisdiction.